FINAL ENVIRONMENTAL IMPACT REPORT

SAN DIEGO CLEAN FUELS FACILITY LLC PROJECT

September 2025

Lead Agency:

City of National City
1243 National City Boulevard
National City, California 91950

Prepared for:

USD Clean Fuels
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Appendix A – San Diego Clean Fuels Facility LLC Draft EIR (November 2024)

Appendix B – Response to California Coastal Commission Request for Information

1.0 INTRODUCTION

1.1 Overview

This document is the Final Environmental Impact Report (EIR), including the Mitigation Monitoring and Reporting Plan (MMRP), for the San Diego Clean Fuels Facility LLC Project (Proposed Project). It has been prepared in accordance with the California Environmental Quality Act (CEQA) (Public Resource Code Section 21000 et. seq.) and the State CEQA Guidelines (14 California Code of Regulations [CCR] Section 15000 et seq.), as amended.

State CEQA Guidelines Section 15132 lists required contents for a Final EIR. The Final EIR shall consist of:

- The draft EIR or a revision of the draft.
- Comments and recommendations received on the draft EIR either verbatim or in summary.
- A list of persons, organizations, and public agencies commenting on the draft EIR.
- The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- Any other information added by the Lead Agency.

1.2 Final EIR Contents

The City of National City (City) is the Lead Agency for the Proposed Project. This Final EIR document supplements the Draft EIR released for public review. On December 6, 2024, the City distributed the Draft EIR for the Proposed Project to public agencies and the general public for review and comment. In accordance with the State CEQA Guidelines, a 54-day review period, which ended on January 29, 2025, was completed. Seven comment letters were received. This Final EIR and MMRP document is organized as follows:

- Section 1.0 provides a discussion of the purpose of the document and discusses the structure of the document;
- Section 2.0 contains a summary of the project description;
- Section 3.0 includes any comment letters received and responses to these comments;
- Section 4.0 includes the errata to address correction and clarifications made to the Draft EIR
- Section 5.0 contains the Mitigation Monitoring and Reporting Plan (MMRP); and
- Section 6.0 includes the appendices.

This Final EIR and MMRP document and the Draft EIR (Appendix A) together constitute the environmental document record for the Proposed Project.

2.0 PROJECT OVERVIEW

2.1 Project Location

The San Diego Clean Fuels Facility LLC Project is located in San Diego County in the City of National City. The Project Area is located between the existing buildings along Cleveland Avenue and the existing BNSF Railway tracks and between Civic Center Drive and West 19th Street. The Project Area is approximately 6.5 acres and is primarily unimproved and undeveloped. The site address is 830 West 18th Street.

2.2 Project Characteristics

The new San Diego Clean Fuels Facility will reconfigure one existing rail spur and add truck loading spots to transload clean renewable and biofuels (renewable diesel, ethanol, and sustainable aviation fuel [SAF]) directly from rail cars into trucks. The delivered fuels will remain in the rail cars until they are transloaded. No stationary above- or below-ground fuel storage tanks are included as part of the Project. Each truck loading spot will consist of a pump skid, controls, and an above ground manifold system with piping between the belly of the rail cars and the bottom loading port of the truck. Small amounts of lubricity, conductivity, and red dye will be added in-line to renewable diesel fuels during the transload process depending on customer specifications. The lubricity, conductivity, and red dye would be stored onsite in three 330-gallon totes. The rail car unloading and truck loading areas will be equipped with a 37,700-gallon concrete containment basin capable of containing the contents of 110 percent of an entire rail car volume. A Facility Response Plan (FRP) will be developed and implemented to address and/or manage potential spills or emergency events onsite. Additionally, an Aqueous Film Forming Foam Fluorine Free Firefighting platform with additional fire hydrants will be positioned onsite to use in case of fire. This firefighting platform will also be available for use by the City's fire department to address and respond to hazards and emergencies within this core industrial area.

Rail cars will be delivered to the facility by the adjacent BNSF Railway and placed directly on designated receiving tracks. Normal maximum capacity will be 21 rail cars that hold a total of approximately 630,000 gallons of product. Normal total daily throughput when the facility is operating will be approximately 579,600 gallons per day. Once the rail cars have been delivered by BNSF Railway, the cars will be switched and spotted for transloading by Plastic Express (PEX), the commercial operator of the facility. After completing the quality and quantity assurance requirements for the product in each rail car, facility operators will unload the fuel commodities directly from the rail cars into trucks via a short above ground manifold system. The transfer volume will be approximately 13,800 barrels of fuel per day or 402 gallons per minute. Once emptied, the railroad will remove and replace cars with full ones as needed.

The proposed transloading facility consists of the following improvements:

- Build tracks and turnouts/crossovers to facilitate car movement in/out and within the transload facility.

- Install concrete slab pump pads at each transload spot.
- Install truck load slabs sloped to a drain in the center at each transload spot.
- Install pumps and piping to move fuels from rail cars to truck loading spots.
- Provide containment enclosures for additive totes.
- Provide a concrete lined containment basin and pipe each load slab drain to the basin.
- Provide track pans for containment at the rail transloading cars.
- Provide an office trailer with control center, restrooms, and driver check-in area.
- Provide all weather paving for the facility and circulation.
- Provide lighting for the site as needed.

The Proposed Project would also provide infrastructure improvements at the Civic Center Drive rail crossing, which include improved rail crossing sign visibility, traffic direction control, and crosswalks. These improvements enhance the area for the purposes of the Project by providing offsite adjacent improvements and improve safety at the BNSF crossing for vehicles and pedestrians.

2.3 Project Background

The current supply chain transports fuel for the San Diego market by rail from the Midwest and Texas and then over 100 miles via trucks from the Los Angeles-Inland Empire region to serve the San Diego area. With this Project, the fuel will be delivered via truck to local retailers within a 35-mile radius.

Through the California Legislature and the governor's executive agencies, the citizens of California have set the requirements for California air quality and established the programs and tools for achieving those requirements. The California Low Carbon Fuel Standard (LCFS) is transforming the entire transportation sector in the state by raising demand for biodiesel, renewable diesel, low carbon ethanol, electric vehicles, renewable natural gas, E85 higher ethanol blends, and sustainable aviation fuels, among other low carbon transportation fuels. By maximizing the contributions of all these renewable fuels, studies published by the California Air Resources Board (CARB) and the California Energy Commission have concluded that greater carbon emission reductions are achievable (CARB 2018).

2.4 Project Purpose and Objectives

USD Clean Fuels (USD-CF) proposes to construct a transloading facility on the BNSF Railway railroad right-of-way (ROW) and adjacent BNSF-owned property. The Project Area is approximately 6.5 acres and is primarily unimproved and undeveloped. The area was formerly used for railroad and industrial purposes. A portion of the Project Area contains four closed release cases; one open release case is located on the adjoining/adjacent properties. The open remediation case is the Pacific Steel Incorporated (PSI) property located adjacent and east of the Project Area at 1700 Cleveland Avenue. The Department of Toxic Substances Control (DTSC) has completed site remediation for the PSI property.

The purpose of the Project is to provide a new transloading facility along the BNSF Railroad to deliver renewable fuels to the San Diego market. Upon development, the Proposed Project would achieve the following objectives by:

- facilitating the State's commitment to achieve a just and equitable transition to carbon neutrality by 2045 and reducing greenhouse gas emissions to 40 percent below 1990 levels by 2030;
- expanding the availability of renewable fuels to the region by advancing the goal of the State's Low-Carbon Fuels Standard, which is a component of the 2022 CARB Scoping Plan, and solving geographic imbalances in the availability of cleaner, lower carbon fuels;
- delivering lower emissions to the San Diego market by significantly reducing fuel transit truck miles compared with the existing supply chain delivering to the current fuel delivery locations;
- increasing the availability of cleaner fuels sooner than the current supply chain;
- creating employment-generating opportunities for the citizens of National City and the surrounding communities;
- encouraging industrial development as compatible and productive uses within existing underutilized and previously contaminated property while minimizing conflicts with the surrounding existing uses;
- providing an appropriately sized facility that balances meeting business performance metrics and minimizing the total truck trips needed to deliver renewable fuels to the San Diego market;
- locating the facility in an appropriately zoned area of the City that would minimize conflicts with surrounding incompatible uses and utilize established City truck routes that provide direct access to Interstate 5 (I-5);
- providing infrastructure improvements required to meet Project needs and improve safety conditions along the BNSF railroad; and
- providing additional firefighting capacity in the Project Area to address and provide quick responses to hazards and emergencies within the City's core industrial area.

2.5 Project Timing

Construction is anticipated to begin December 2025 and take approximately 6 months to complete.

3.0 COMMENTS AND RESPONSES

The 54-day public review period began on December 6, 2024, and ended on January 29, 2025. In conformance with Section 15088(a) of the State CEQA Guidelines, the City is required to consider comments received during the review period.

The City received seven comment letters on the Draft EIR during the public review period. Table 3-1 presents a list of those agencies, organizations, and individuals who commented on the Draft EIR.

Table 3-1. Draft EIR Public Comment Letters

Letter	Date	Individual/Organization	Page
1	1/23/2025	San Diego Air Pollution Control District	3-2
2	1/27/2025	Jake Zindulka	3-11
3	1/27/2025	Ted Godshalk	3-14
4	1/27/2025	California Air Resources Board	3-21
5	1/29/2025	California Coastal Commission	3-42
6	1/29/2025	Eric Suarez	3-57
7	1/29/2025	Environmental Health Coalition	3-64

In accordance with State CEQA Guidelines Section 15088, the City has evaluated the comments on environmental issues received from agencies and other interested parties and has prepared written responses to each comment pertinent to the adequacy of the environmental analyses contained in the draft EIR. In compliance with Section 15088(b) of State CEQA Guidelines, the written responses address the environmental issues raised. A copy of each comment letter is provided, and responses to each comment letter immediately follow.

No comments have prompted changes to the text of the draft EIR, which would be referenced in this chapter would be shown in the Chapter 4, *Errata*.

Letter 1 – San Diego County Air Pollution Control District



Letter 1

January 23, 2025

City of National City
Attn: David Welch, Associate Planner – Planning Department
1243 National City Boulevard
National City, CA 91950
dwelch@nationalcityca.gov

Re: San Diego Clean Fuels Facility LLC Project

Dear Mr. Welch,

The San Diego County Air Pollution Control District (SDAPCD) appreciates the opportunity to submit comments on the Draft Environmental Impact Report (DEIR) for the San Diego Clean Fuels Terminal LLC Project. Below are the SDAPCD's comments concerning the evaluation of potential air quality impacts presented in the EIR.

Project Location

In our comment letter dated June 6, 2024, regarding the scoping meeting and initial study we requested an alternate location be evaluated since the project location is in the Portside Environmental Justice Community (Portside Community). The only alternate location evaluated in the DEIR for San Diego County was also located within the Portside Community (3202 Hoover Avenue, National City). The SDAPCD recommends the analysis also consider other project locations outside the Portside Community given the disproportionate burdens from exposure to air pollutants that residents of this community are already experiencing. **1-1**

Ongoing Compliance

Given that the air quality analysis in the DEIR heavily relies on the number of heavy-duty truck trips, the SDAPCD strongly recommends that the DEIR explicitly state that permits for the facility will include conditions to limit truck trips and/or impose throughput limitations for all fuels transferred at the proposed facility. This measure is essential to ensure ongoing compliance with CEQA requirements, as any increase in truck trips could result in air emissions exceeding significance thresholds. **1-2**

The Initial Study concludes that odors associated with this operation would have a less-than-significant impact. However, the DEIR lacks sufficient information to substantiate this conclusion. Considering the potential for odor generation from the proposed operation, it is strongly recommended to evaluate ongoing compliance with regulatory requirements designed **1-3**

Letter 1 – Continued

San Diego County Air Pollution Control District

to prevent public nuisances. For reference, we have included a link to the SDAPCD's public nuisance regulations[1]. **1-3 cont.**

Emission Reduction Strategies

As noted in the DEIR, this project will include 138 daily heavy-duty truck trips and 42 passenger automobile trips associated with the onsite workers in addition to emissions from construction equipment and from locomotives and switching engines. **1-4**

The Portside Community bears a disproportionate air quality burden, largely attributed to diesel particulate matter (DPM) emissions from goods movement activities, industrial operations, and transportation corridors serving the nearby port terminals. DPM, a key component of diesel exhaust, is classified as a toxic air contaminant and can pose significant health risks, including respiratory and cardiovascular diseases, as well as an elevated risk of cancer. The dense concentration of diesel-powered equipment, such as trucks, ships, and cargo handling equipment, exacerbates the exposure of residents to harmful pollutants. This community, already identified as a vulnerable population due to socioeconomic and health disparities, continues to experience heightened health risks from cumulative DPM exposure, underscoring the urgent need for mitigation efforts and cleaner technologies to reduce emissions in the region. To mitigate these harmful impacts, we strongly recommend the evaluation of zero-emission vehicles, trucks, and locomotives for projects in the Portside Community. Transitioning to clean technologies aligns with the goals and strategies in Portside Community Emissions Reduction Plan.[2] **1-5**

DEIR Emission Calculations

- Tables B10-B13 of the DEIR provide information regarding onsite emissions from stationary source equipment. On page 94 of the DEIR, it is assumed that there is a 98.7% vapor collection efficiency (based on New Source Performance Standard-Level Annual Leak Test). This would result in a 1.3% assumed fugitive losses. Also, on pages 128-129 of the DEIR, it is assumed that there is a 1% residual diesel left in the rail cars from previous loads (1 – 0.99 or 99% efficiency). However, the assumption that 99% of emissions are being controlled lacks a clear basis. Additionally, it is not evident how toxic air emissions from the fugitive losses and residual diesel fuel present in the rail cars are accounted for and assumed that they are being further reduced by an additional 99%, beyond the 98.7% control efficiency reported for the vapor collection system. **1-6**
- The analysis of acute impacts from diesel combustion must include all speciated components of DPM. The SDAPCD has published emission factors for DPM[3]. **1-7**

[1] https://www.sdapcd.org/content/sdapcd/compliance/air-quality-complaints/nuisance-complaint-program.html
[2] https://www.sdapcd.org/content/dam/sdapcd/documents/capp/cerp/Portside-Environmental-Justice-CERP-July-2021.pdf
[3] https://www.sdapcd.org/content/dam/sdapcd/documents/permits/emissions-calculation/combustion-diesel-fired-engines-/APCD-Engine-DieselFired-600-BHP-Uncontrolled.pdf

Letter 1 – Continued

San Diego County Air Pollution Control District

- The title above Table B-14 (*Operational Assumptions for Train Transport of Liquid Fuels*) should be labeled "Train Transport" rather than "Switching Activity". **1-8**
- The emissions reported under Table B-17 (*Daily Emissions from Train Transport of Clean Fuels*), should be "0.017 lbs/hr" rather than the "0.002 lbs/hr". **1-9**
- Table B-18 (*Annual Emissions from Train Transport of Clean Fuels*) reports emissions in lbs/yr, but labels them as "tpy". **1-10**

Should you have any questions about these comments or APCD requirements please contact Supervising Air Resources Specialist, Eric Luther (858) 586-2893 or eric.luther@sdapcd.org.

Sincerely,

Eric Luther

Eric Luther
Supervising Air Resources Specialist

Page **3** of **3**

Response to San Diego County Air Pollution Control District – Letter 1

Response to Comment 1-1:

Comment 1-1 states the only alternative Project location evaluated was also located within a Portside Environmental Justice Community. SDAPCD recommends analysis of other potential project locations outside the Portside Community.

In compliance with CEQA Guidelines Section 15126.6(a), the Draft EIR considered a range of reasonable alternatives to the Project, or to the location of the Project that would feasibly attain most of the basic objectives of the Project but avoid or substantially lessen any of the significant effects of the Project. Under CEQA, not every conceivable alternative needs to be considered; rather, it must consider a reasonable range of potentially feasible alternatives to the Project that will foster informed decision making and public participation. As described in Section 5.3.1 of the Draft EIR, *Alternative Location Outside of National City*, the City considered alternative locations within and outside of both the City limits and Portside Communities along both Union Pacific and BNSF rail lines. The siting of fuel transfer facilities of this magnitude requires a substantial flat area large enough to accommodate multiple rail cars queued off of the railroad mainline or primary rail spur so as to not obstruct other rail activity. Along the Union Pacific line, the nearest potential site was located near the City of El Centro in Imperial County. This site is owned by Union Pacific, is adjacent to the Union Pacific rail line, and is appropriately sized and zoned for this type of project. However, the El Centro site would not meet the Project's objectives to significantly reduce fuel transit truck miles or to create employment opportunities in National City. No other BNSF-owned properties that exist within the target market area were identified.

A reasonable attempt was made to identify an alternative location outside of the City that meets most of the basic Project objectives and property requirements such as being rail-owned, rail adjacent, adequately sized to accommodate the required throughput, and appropriately zoned to accommodate this type of project. Alternative locations considered were either unavailable for development, would not feasibly accommodate a project such as the Proposed Project, or would not reduce any significant impacts because none are identified for the Proposed Project. No changes to the Draft EIR are required in response to this comment.

Response to Comment 1-2:

In this comment SDAPCD strongly recommends that the Draft EIR explicitly state that permits for the facility will include conditions to limit truck trips and/or impose throughput limitations for all fuels transferred at the proposed facility.

As part of the Project approvals, the City will establish throughput limitations on all fuels transferred at the proposed facility consistent with the information submitted by the Applicant on the Project's Conditional Use Permit (CUP) application. The throughput amount in the Applicant's CUP application is what is analyzed in this Draft EIR. Any change to throughput needed at the facility and any proposed increase in

throughput of the Proposed Project will require that the Applicant undergo a new application process. No changes to the Draft EIR are required in response to this comment.

Response to Comment 1-3:

Comment 1-3 states the Draft EIR lacks sufficient information to substantiate the less-than-significant conclusion for odors associated with project operation. SDPCD recommends evaluating ongoing compliance with regulatory requirements designed to prevent public nuisances, as listed in the link provided in the letter.

Typically, odors are regarded as an annoyance rather than a health hazard. However, manifestations of a person's reaction to foul odors can range from psychological (e.g., irritation, anger, or anxiety) to physiological (e.g., circulatory and respiratory effects, nausea, vomiting, and headache). As described in the Initial Study prepared for the Proposed Project, during construction the Proposed Project presents the potential for generation of objectionable odors in the form of diesel exhaust in the immediate vicinity of the Project Area. However, these emissions are short-term in nature and will rapidly dissipate and be diluted by the atmosphere downwind of the emission sources. Additionally, odors would be localized and generally confined to the construction area. Therefore, construction odors would not adversely affect a substantial number of people to odor emissions.

According to the CARB Air Quality and Land Use Handbook: A Community Health Perspective (CARB 2005), the sources of the most common operational odor complaints received by local air districts include facilities such as sewage treatment plants, landfills, recycling facilities, petroleum refineries, and livestock operations. The Project does not contain any of the land uses identified as typically associated with emissions of objectionable odors. Furthermore, the Proposed Project does not include the manufacture of any fuels. The delivered fuels will remain in the rail cars until they are transloaded. No stationary above- or below-ground fuel storage tanks are included as part of the Project. The Project involves the transloading of clean renewable and biofuels, including renewable diesel, biodiesel, ethanol, and sustainable aviation fuels. These fuels are generally less odorous than conventional petroleum-based fuels. Unlike facilities handling raw crude oil or refining operations, the Project does not involve processes that emit high levels of sulfur compounds or volatile hydrocarbons commonly associated with strong odors.

SDAPCD's Rule 51 (*Nuisance)* prohibits emissions that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public; or which endanger the comfort, repose, health, or safety of any such persons or the public; or which cause injury or damage to business or property. SDAPCD implements a nuisance complaint program to address violations of emissions of air contaminants including smoke, dust, and odors. If a nuisance source of emissions is verified by a SDAPCD inspector, a Notice to Comply/Notice of Violation is issued and the issue must be resolved. Additionally, trucks which will be serving the site are required to comply with the CARB five-minute idling rule which restricts idling for more than five minutes within 100 feet of homes, schools, hospitals, senior care facilities, and childcare facilities. None of these uses are located within 100 feet of the Project Area. As stated on page 3.1-12 of the Draft EIR, the Project would be required to comply with the San Diego Air Pollution Control District (SDAPCD) Rule 51 (Nuisance), which prohibits emissions that cause injury, detriment, nuisance, or

annoyance to a considerable number of people or the public. Additionally, the fuel will remain in rail cars until transloaded, eliminating the need for large onsite storage tanks that could be potential sources of odor. The facility will adhere to all SDAPCD regulatory requirements, ensuring that any potential odor concerns are promptly addressed through ongoing compliance and enforcement measures. No changes to the Draft EIR are required in response to this comment.

Response to Comment 1-4:

Comment 1-4 summarizes the Project's total daily heavy-duty truck trips and passenger automobile trips. No response is needed.

Response to Comment 1-5:

Comment 1-5 states the Portside Community has a disproportionate air quality burden due to diesel particulate matter (DPM) emissions. DPM poses health risks such as respiratory and cardiovascular diseases. This comment states the Portside Community experiences heightened health risks from cumulative DPM exposure. To mitigate exposure and align with the Portside Community Emissions Reduction Plan (CERP) goals, the SDAPCD recommends the evaluation of zero-emission vehicles, trucks, and locomotives for projects in the Portside Community. The comment also provides a link to the Portside Environmental Justice CERP.

The commenter raises concerns about the Projects alignment with California's goal of transitioning to zero-emission vehicles (ZEVs) to reduce the generation of toxic air pollutants and their associated health risk as well as greenhouse gas (GHG) emissions. The Project directly supports the state's goal to further reduce toxic air pollutants. As stated on page 3.1-10 of the Draft EIR, the CARB approved amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation (Off-Road Regulation) in 2022, which are aimed at further reducing emissions from the off-road sector. The amendments require fleets to phase-out use of the oldest and highest polluting off-road diesel vehicles in California; prohibit the addition of high-emitting vehicles to a fleet; and require the use of R99 or R100 renewable diesel in off-road diesel vehicles. Off-road vehicles that are subject to the amended rule are used in construction, mining, industrial operations, and other industries. The amended rule went into effect in January 2024. According to CARB (In-Use Off-Road Diesel-Fueled Fleets Regulation. https://ww2.arb.ca.gov/ourwork/programs/use-road-diesel-fueled-fleets-regulation), the amended rule will reduce harmful air pollutants from over 150,000 in-use off-road diesel vehicles that operate in California and is expected to yield $5.7 billion in health benefits, prevent more than 570 air-quality related deaths and nearly 200 hospitalizations and emergency room visits from 2023 to 2038. From 2024 through 2038, the current amendments will generate an additional reduction to the current regulation of approximately 31,087 tons of nitrogen oxide (NOx) and 2,717 tons of fine particulate matter (PM2.5). About half of the additional reduction associated with the amended rule is expected to be realized within the first five years of implementation. Moreover, as described on page 3.1-18 of the Draft EIR the Proposed Project's distribution of renewable diesel in the San Diego Area would result in reductions in local air pollutants from the replacement of combustion of regular diesel with renewable diesel.

More specifically, for every 1,000 gallons of conventional diesel replaced with renewable diesel, combustion emissions of NOx, carbon monoxide (CO), and particulate matter (PM) would be reduced by 43.5, 28.5, and 0.7 pounds, respectively. As shown on page 3.1-18 of the Draft EIR, the Proposed Project enables the delivery of 336,000 gallons per day of R100 renewable diesel to replace existing CARB diesel at local retail stations, which would result in the following local tailpipe emission reductions:

- 5.3 million pounds of NOx emissions per year
- 3.5 million pounds of CO emissions per year
- 460 thousand pounds of total hydrocarbons (THC) emissions per year
- 90 thousand pounds of diesel particulate matter (DPM) emissions per year.

Additionally, the Project would reduce overall truck mileage by approximately 2 million miles per year by eliminating lengthy truck trips from Los Angeles/Inland Empire locations, which would remove the following regional tailpipe emissions from the supply chain:

- 7 million pounds of carbon dioxide (CO2) emissions per year
- 74 thousand pounds of NOx emissions per year
- 26 thousand pounds of CO emissions per year
- 10 thousand pounds of THC emissions per year
- 8 hundred pounds of DPM emissions per year

Additionally, the Project supports the state's long-term GHG reduction strategies by facilitating the use of renewable diesel, ethanol, biodiesel, and sustainable aviation fuel, all of which serve as lower-carbon alternatives to conventional petroleum-based fuels. The Project would help reduce transportation-related GHG emissions immediately by shortening fuel transport distances and replacing higher-emission conventional fuels with low-carbon renewable fuels, consistent with the objectives of the 2022 CARB Scoping Plan and the Low Carbon Fuel Standard. As stated on page 3.4-11 of the Draft EIR, renewable diesel alone can reduce lifecycle GHG emissions by up to 70 percent compared to traditional diesel, providing substantial benefits in the near term while ZEV adoption continues to scale.

While the transition to ZEVs is a critical component of California's long-term air toxic-reduction and decarbonization strategy, the technology is not yet widely available or feasible for heavy-duty trucks and locomotives at the scale required to replace all fossil fuel use. The CARB Scoping Plan acknowledges the need for multiple clean fuel solutions in the transportation sector, particularly in applications where electrification remains technically or economically challenging. The Project does not conflict with or delay the adoption of ZEVs but rather serves as an intermediate step in achieving state-mandated emissions reductions, ensuring immediate environmental benefits while ZEV infrastructure and technology continue to develop. No changes to the Draft EIR are required in response to this comment.

Response to Comment 1-6:

The commenter states that "Tables B10-B13 of the Draft EIR provide information regarding onsite emissions from stationary source equipment." The commentor also expresses concern with the percentage of fugitive loss (leaks) used in the analysis and refers to pages 94, 128, and 129 of the Draft

EIR. As a point in clarification, Tables B-10 – B-13 are contained within an Attachment to Appendix B of the Draft EIR ("Air Quality and Greenhouse Gas Emissions Assessment for the San Diego Clean Fuels Facility, LLC Project") and provide contaminant specifications and emissions associated with the fuel residuals left in fuel transfer equipment as a result of the fuel transfer of three different fuel types. The commenter references page 94 of the Draft EIR indicating this is where information on vapor collection efficiency is identified and also references pages 128-129 indicating this is where an assumption is provided that indicates there would be a 1 percent residual diesel volume left in rail cars from previous loads.

It is noted that the toxic air emissions from fugitive losses were properly accounted for and provided in the emissions inventory. As identified on page 99 of the Project's *Air Quality and Greenhouse Gas Emissions Assessment* (Appendix B of the Draft EIR) and correctly noted by the commenter, according to EPA AP-42 section 5.2 "Transportation and Marketing of Petroleum Liquids," trucks passing the New Source Performance Standards (NSPS) level annual leak test are assumed to have a collection efficiency of 98.7 percent across the collection system. The models of trucks being used at the new facility are used at a similar site by the same owner and are required to pass the NSPS-level annual leak test at this facility. Similarly, this Project would require current proof of passing this required leak test for each truck that loads at the facility. As stated on page 3.1-23 of the Draft EIR, small amounts of toxic air contaminants emitted from residual fossil fuels in transfer equipment and "worst case" gasoline contents in the ethanol transferred are included in the Project's emissions inventory. Residual fossil fuels accounted for in the analysis are not part of the Project; they are a conservative assumption of the amount of product leftover from facility operations. It should be noted that the trucks picking up fuel must either show proof that their last fuel load was the same (bio or renewable diesel) or that they have had a certified washout since their last fuel load. Modern unloading systems are designed to ensure maximum recovery of fuel, reducing the potential for residual diesel to remain in the rail cars. Thus, a residual diesel fuel estimate of 1 percent of capacity is appropriate. No changes to the Draft EIR are required in response to this comment.

Response to Comment 1-7:

The comment suggests that the analysis of acute impacts from diesel combustion should include all speciated components of DPM. However, the health risk assessment prepared for the Proposed Project follows the Office of Environmental Health Hazard Assessment (OEHHA) Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments (2015) and CARB Non-Vehicular Diesel Engine Risk Assessment Guidance (2024), both of which classify DPM as a toxic air contaminant and do not require further speciation for health risk assessments.

The analysis uses HARP2, developed by CARB, which integrates OEHHA's health risk factors for DPM, ensuring a comprehensive evaluation of acute, chronic, and cancer risks associated with diesel emissions. Furthermore, DPM emissions were modeled as coarse particulate matter (PM_{10}) in HARP2, which is consistent with statewide regulatory methods for health risk assessments, including those conducted under CEQA. This approach also accounts for real-world truck activity, incorporating variations in truck

speeds and onsite idling, which provides a more refined and accurate emissions profile than using default emission factors. No changes to the Draft EIR are required in response to this comment.

Response to Comment 1-8:

Comment 1-8 states the title above Table B-14 should be labeled "Train Transport" rather than "Switching Activity".

The title of Table B-14, contained within an Attachment to Appendix B of the Draft EIR ("Air Quality and Greenhouse Gas Emissions Assessment for the San Diego Clean Fuels Facility, LLC Project"), is "Operational Assumptions for Train Transport of Liquid Fuels". No edit is needed.

Response to Comment 1-9:

The comment suggests that the emissions reported under Table B-17 (Daily Emissions from Train Transport of Clean Fuels) should be "0.017 lbs/hr" rather than "0.002 lbs/hr." The calculations presented in Table B-17 were reviewed and it was confirmed that the reported value of 0.002 lbs/hr was derived using the appropriate emission factors (see Tables B-14 and B15), train activity data, and modeling inputs specific to the Project's operations. The calculation accounts for switching activity emissions, including material weight and trip distance.

Response to Comment 1-10:

The comment suggests that Table B-18 (Annual Emissions from Train Transport of Clean Fuels) reports emissions in pounds per year (lbs/yr) but labels them as "tpy" (tons per year). Table B-18 was reviewed and it was confirmed that the emissions are correctly labeled. Equation No. 2 above Table B-17 shows the calculation used in Table B-18. Annual Emissions (tons/yr) = Material Weight (tons/yr) * Trip Distance (mi) * / (ton-miles/gallon) / 453.6 (g/lb).

Letter 2 – Jake Zindulka

Letter 2

From: Jake Zindulka mailto:jakezindulka@outlook.com]
Sent: Monday, January 27, 2025 9:21 AM
To: David Welch <dwelch@nationalcityca.gov>
Subject: Draft EIR Comments - USD Clean Fuels

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Hi David,

I have three comments on the draft EIR.

- The draft EIR fails to assess the environmental impact associated with the risk of truck accidents after the trucks leave the facility and drive on city streets, especially given the proposed 72 trucks per day containing about 579,000 gallons of fuel. Stating that the trucks will be operated by third parties and regulated by the federal government is insufficient.

There is a significant risk involved in the transportation of the fuel by trucks. Refer to the November 25, 2024, fuel truck accident in El Cajon that released 8,800 gallons of fuel into the soil and stormwater systems, requiring EPA involvement and a 300 ft. evacuation (including businesses and homes). This risk should be thoroughly evaluated. The trucks will be very close to Paradise Marsh, the Marina, and San Diego Bay National Wildlife Refuge. There is a significant risk that fuel will enter these protected areas. **2-1**

- The draft EIR fails to consider alternative locations outside of National City. Several areas between National City and the current transfer station (I believe it is somewhere in LA or Inland Empire) could be considered (i.e., along the rail route). This alternative should be explored further. **2-2**

- The draft EIR proposes an alternative that would involve reducing the amount of fuel per day by 25%. The draft EIR fails to address why the input/output cannot be reduced by more than 25%. The proposed percentage appears arbitrary. The report should provide more analysis, including considering the applicant's estimated profit, savings, and break-even point. **2-3**

Thank you.

Response to Jake Zindulka – Letter 2:

Response to Comment 2-1:

This comment states the EIR fails to assess the environmental impact associated with the risk of truck accidents involving trucks leaving the proposed facility. This comment states there is significant risk of fuel affecting nearby protected areas (Paradise Marsh, the Marina, and San Diego Bay National Wildlife Refuge) in the case of a fuel truck accident. The commenter also describes a fuel truck accident in the City of El Cajon in 2024.

An evaluation of truck accidents that could occur offsite away from the Project Site are beyond the scope of the Draft EIR. As described in Section 3.5 of the Draft EIR, each truck loading spot includes a concrete pad and drain for the containment of potential spills, which would be piped to an onsite 37,700-gallon containment basin located on the southern portion of the Project Area. The rail car and truck unloading area would be equipped with a containment system capable of containing the contents of 110 percent of an entire rail car volume until the material can be evacuated, transported, and disposed of. As further described in this section, a Facility Response Plan (FRP) has been developed and will be implemented to address or manage potential spills or emergency events onsite to minimize hazards to human health and the environment (CURA 2024).

Spill Prevention, Control, and Countermeasure (SPCC) Plans (40 CFR 112.7) are required for certain oil storage facilities to prevent oil discharges into navigable waters or adjoining shorelines. A project is subject to SPCC requirements if the facility (1) is non-transportation related or for construction, the construction operations involve storing, using, transferring, or otherwise handling oil; (2) could reasonably be expected to discharge oil into or upon navigable Waters of the United States or adjoining shorelines; and (3) has a total buried storage capacity greater than 42,000 gallons or aboveground storage capacity greater than 1,320 gallons. The SPCC Plans should address oil storage container capacity, discharge prevention measures; discharge or drainage controls; countermeasures for discharge discovery, response, and cleanup; and disposal methods for recovered materials.

The FRP is designed to complement the SPCC Plan prepared for this facility. The SPCC Plan is incorporated by reference in the FRP. The SPCC Plan would minimize the potential for a petroleum spill, prevent any spill from reaching navigable waterways, and ensure that the spill's causes are corrected.

The Draft EIR further provides information described in Title 49 of the Code of Federal Regulations and implemented by Title 13 of the CCR. The United States Department of Transportation (USDOT) Office of Hazardous Materials Safety has established strict regulations for the safe transportation of hazardous materials. Appropriate documentation for all hazardous waste that is transported in connection with Project activities would be provided as required for compliance with existing hazardous materials regulations. The Applicant's motor carrier terminal access program ensures that only USDOT-compliant drivers will serve the facility. Furthermore, the National Fire Protection Association (NFPA) 704 diamond system provides basic information to firefighters, emergency responders, and other personnel with and easily recognized system for identifying specific hazards and their severity using spatial, visual and

numerical methods to describe the relative hazards of a material. This is a diamond-shaped sign with four smaller quadrants/diamonds inside. One diamond is blue, one is red, one is yellow and one is white. The diamond-shaped signs use the four color-coded categories to give a general idea of the hazards that personnel or observers are exposed to in any specific area. The number in each inner quadrant represents the hazard rating for each of the 3 categories. Each material is assigned a rating in these three categories: health (blue), flammability (red), and instability (yellow). The white box is reserved for special hazards such as water reactivity, oxidizers or simple asphyxiant gases. The health, flammability, and instability ratings of a material vary according to its physical and chemical characteristics. The ratings are 4, 3, 2, 1, or 0, with 4, indicating severe hazard or extreme danger, to 0, indicating no required warning is necessary. The NFPA 704 diamond labeling system is a universal standard and best practice that is widely implemented in the industry.

The FRP prepared for the Project is designed to minimize hazards to human health and the environment created by onsite spills involving petroleum, oils, and lubricants or hazardous substances. The FRP complies with the U.S. Environmental Protection Agency (USEPA) regulations under 40 CFR 112 Subpart D. However, the transport of hazardous materials by trucks is regulated by federal safety standards under the jurisdiction of the USDOT. As described in Title 49 of the CFR and implemented by Title 13 of the CCR, the USDOT Office of Hazardous Materials Safety has established strict regulations for the safe transportation of hazardous materials. No changes to the Draft EIR are required in response to this comment.

Response to Comment 2-2:

This comment states the EIR fails to consider alternative locations outside of National City, including several areas between National City and the current transfer station.

Please refer to Response to Comment 1-1.

Response to Comment 2-3:

This comment states the 25 percent reduction alternative in the Draft EIR fails to address why the input/output cannot be reduced by more than 25 percent.

In discussions with the Applicant, the Project's throughput was reduced by approximately 50 percent. The Reduced Intensity Alternative (Alternative 2) would result in a further 25 percent reduction in the number of barrels of fuel transloaded per day and reduce the total amount of Project truck trips. A 25 percent reduction was considered as it would incrementally reduce the magnitude of impacts to air quality, GHG emissions, energy, and transportation; still meet many of the Project's objectives; and be a reasonable, feasible, and viable alternative to the Proposed Project. As stated in Section 5.2 of the Draft EIR, of the alternatives considered, the EIR need examine in detail only those the lead agency determines could feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project. CEQA Guidelines Sect ion 15364, define "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." A reduction in an amount exceeding

more than 25 percent would reduce the daily throughput such that the Project would not meet most project objectives and would not be a viable option. No changes to the Draft EIR are required in response to this comment.

Letter 3

From: Ted Godshalk [mailto:paradisecreek@me.com]
Sent: Monday, January 27, 2025 3:10 PM
To: David Welch <dwelch@nationalcityca.gov>
Subject: SD Fuels DEIR Comments from Mr. Ted Godshalk

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David Welch
Associate Planner
City of National City

Mr. Welch,

This letter contains my comments on the DEIR prepared for the San Diego Clean Fuels Facility LLC Project at 830 West 187th Street in National City. This analysis in this DEIR fails to adequately address several key components and therefore does not adequately protect the health and living conditions of the people in the area of National City. The City has to protect the people living and working in the area according to State Law, City regulations, and Adopted Plans. Other commenters, including the California Air Resources Board and the Environmental Health Coalition have addressed the concerns I bring up and have included full citation of these laws, and in some cases they have gone even further. **3-1**

With this conclusion, the City of National City must not certify this DEIR and must prepare a response to the applicant that this type of project must find a location outside the boundaries of National City.

I concur with the California Air Resources Board (CARB) when it stated in an earlier comment letter that it is **"concerned about the potential for the Project to increase heavy-duty truck and locomotive trips in the near-by Portside Environmental Justice Neighborhoods Community resulting in localized health impacts."** The applicant and its consultants do not dispute this. Obviously, city planners and the elected officials who hire them know from the application, that this project involves a constant flow of diesel trucks into the site. The applicant would like to run these trucks in and out of the project at night, but reserves the right to operate 24 hours a day and 7 days a week. The DEIR included the following quote, "The project would result in the consumption of approximately 119,306 gallons of automotive fuel per year." The project will also contribute new green house gasses (GHG) in the amount of 1,525 metric tons of CO2, annually. This DEIR and the project do not and apparently cannot avoid this, so the project must not be allowed in this community. Mitigation measure GHG-1 will not ensure compatibility with GHG reduction plans because neither BNSF, the project operator, nor the independent truck drivers have any motivation or incentive to limit idling, truck trips, or vehicle miles driven. **3-2**

In addition, the BNSF railroad, which has the property ownership and the commercial interest in this project, will run train engines into and out of this property for unloading. The railroad engine is a gross polluter of all communities it runs through and stopping in National City makes it an unwanted business and unhealthy operator. Rail pollution has not been addressed in this DEIR, and the City of National City should not neglect this impact. **3-3**

CARB has called for the City to "ensure the implementation of all mitigation… to limit the project's air quality and health impact," I hold that the only mitigation is to locate this project along the BNSF rail line in a non-residential area. **3-4**

In Section 3.5 for Hazards and Hazardous Materials, the inclusion of a containment system at the Project area does nothing to address spills, fires, explosions, and other accidents by railcar, train engine, or diesel truck on any streets near the project area on the way to or from the project. **3-5**

In Table ES.2 on page ES-22, the DEIR incorrectly assumes that the project would not impair implementation of or physically interfere with an Adopted Emergency Plan or Emergency Evacuation Plan. This assumption is a best case scenario, and is unsubstantiated and simply ludicrous.

There is no plan that the public is aware of for any incident on city (public and private) property, Port District properties, or Navy properties in this area. This was evident during the fire incident in July 2020 on the navy vessel the USS Bonhomme Richard. All of the roadways and intersections listed in the section have many carriers of unknown materials, some hazardous no doubt, as well as public transit and other modes of transportation. This DEIR has not adequately addressed the possible emergency scenarios. **3-6**

On ES-23 -24, the claim is made that "The project's distribution of renewable diesel would result in a reduction of local air pollutants." The calculations may be for county-wide reductions, but this project WILL have unavoidable impacts to air quality with truck generated diesel pollutants, increased noise including at night, and heavier traffic in the area. **3-7**

On ES-24, the analysis has inadequately covered the noise issue. The rail operator is under no requirement to limit the number of trains on its tracks in this area. It will be possible to see, and hear, two or more trains running simultaneously at this project, as well as just up and down track in a queue. **3-8**

In earlier comment letters during the scoping process, the issue of truck routes were discussed. The City Planning Department has not taken the time to admit that there are no enforcement methods, policies, procedures, nor personnel to enforce truck routes on this Project. There should have been solid discussions, in-house and with the applicant, about enforcement and fines and the conclusion that should be reached is that this DEIR does a poor job at protecting the community from these impacts. **3-9**

Perhaps the most serious oversight of this DEIR, the consultant's work, and the City staff's preliminary work is in the area of Alternatives.

The first Alternative, No Project, falsely claims that the property would remain "largely vacant." If the City and BNSF would admit that the community's health should be protected and that there is a huge need for housing in this area, this property should be developed with multi-story, market rate and affordable housing for civilian and military households that have individuals who work on Naval Base San Diego. BNSF could do this with the community's support to really meet a need. To do otherwise, continues the legacy of railroad operations which neglected and abused people from the earliest days of the nation's westward expansion. **3-10**

The amount of GHG emissions that could be avoided by having fewer vehicle miles travelled to work by people living just outside of the base work center would outweigh the proponent's claims with biodiesel transfer and truck trips. The NO Project Alternative (1) and denial of all permits for this project could open the door to real "reuse" of a long term derelict property in our city.

Letter 3 – Ted Godshalk

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In addition, the BNSF railroad, which has the property ownership and the commercial interest in this project, will run train engines into and out of this property for unloading. The railroad engine is a gross polluter of all communities it runs through and stopping in National City makes it an unwanted business and unhealthy operator. Rail pollution has not been addressed in this DEIR, and the City of National City should not neglect this impact. **3-3**

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In Section 3.5 for Hazards and Hazardous Materials, the inclusion of a containment system at the Project area does nothing to address spills, fires, explosions, and other accidents by railcar, train engine, or diesel truck on any streets near the project area on the way to or from the project. **3-5**

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In earlier comment letters during the scoping process, the issue of truck routes were discussed. The City Planning Department has not taken the time to admit that there are no enforcement methods, policies, procedures, nor personnel to enforce truck routes on this Project. There should have been solid discussions, in-house and with the applicant, about enforcement and fines and the conclusion that should be reached is that this DEIR does a poor job at protecting the community from these impacts. **3-9**

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Letter 3 – Continued

This DEIR has not taken seriously the range of possible OFFSITE (3) alternatives. The City of National City, as the lead agency, has not fulfilled its responsibility in this section, in particular, the language in CEQA requiring a "reasonable range of potentially feasible alternatives that will foster informed decision making and public participation."

The property owner, BNSF railroad, and the applicant can be required to site this project and the proposed use of the railroad away from residential areas somewhere along the entire length of the railroad in San Diego County.

The length of the rail line operated by BNSF, with the public oversight of the Department of Transportation, gives BNSF a unique opportunity for development. One area that should have been analyzed in this DEIR as an Alternative site is the rail line near the Interstate 805-Miramar and Nobel roads triangle shown below.

There are no factors that would make this Alternative location for this project "infeasible" and it should be studied along the CEQA guidelines 15364. **3-11**

This Alternative site would protect families, children, seniors, and residents who are sensitive receptors to toxics from the otherwise onerous business activity that is only motivated by commercial interests and greed.

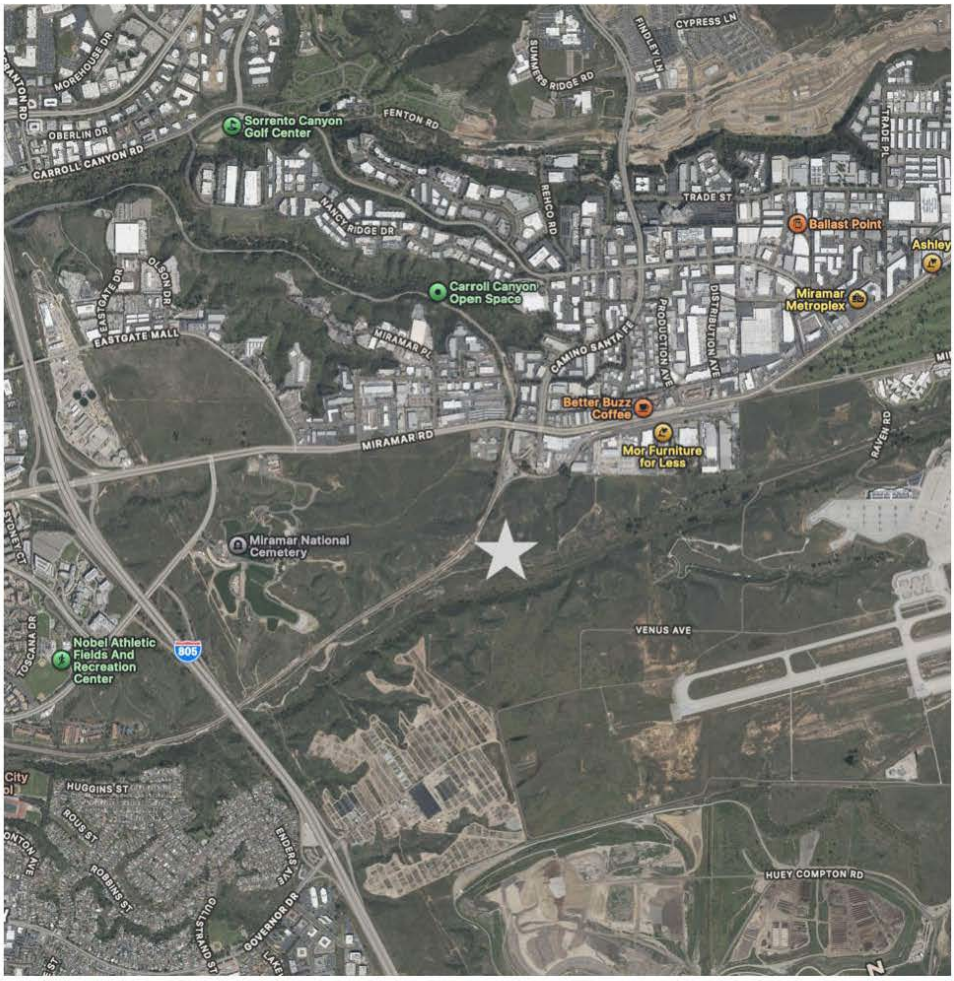
The conclusion that the Other Site Alternative (3) must be in National City is nonsensical and not valid when looking at the entire length of the BNSF rail line. The DEIR analysis failed to look at sections of the rail that are not near residential areas, not near a Portside Community, and not identified as a community in need of the protections of SB 1000 with its Environmental Justice principles.

In could be said, that this 805-Miramar/Nobel site is closer to the freeway interchanges connecting a much larger part of the San Diego County region, requires fewer rail train engine miles travelled, fewer truck miles traveled, and would thus eliminate more emissions overall than the location at the terminus of the rail line.

Seriously judging this project and its DEIR requires careful study of the specifics of the operations, but it also requires understanding of the past and present business practices of BNSF, the commercial factors that drives it, and the history of toxics in National City. With the full knowledge of the impacts, I request that the Planning Department reject the DEIR as presently written. If it unable to do so, and the DEIR is forwarded to the National City Planning Commission, I request that the Commission does not certify this DEIR and denies all permits. Finally, I request that the City Council of National City, likewise, does not certify this DEIR and uses the findings shared by the community, health experts, and State Agencies to deny all permits for San Diego Fuels and BNSF to build this project. **3-12**

Ted Godshalk

Letter 3 – Continued



3-13

Response to Ted Godshalk – Letter 3:

Response to Comment 3-1:

The commenter summarizes that the Draft EIR failed to address several key components to protect the health and living conditions of the National City residents and cites other commenters that have submitted concerns. The commenter asserts the City should not certify the Draft EIR.

This comment is noted. No response is necessary.

Response to Comment 3-2:

The commenter states concurrence with CARB's comment letter expressing concern about the Project's potential to increase heavy-duty truck and locomotive trips in the Portside Community. The commenter asserts the Proposed Project should not be allowed due to the 1,525 metric tons of CO_2 that would be contributed annually that cannot be avoided. This comment states Mitigation Measure GHG-1 would not ensure compatibility with GHG reduction plans because BNSF, the Project operator, and independent truck drivers have no motivation or incentive to limit truck idling, truck trips, or vehicle miles driven.

As discussed in Section 3.4 *Greenhouse Gas Emissions* of the Draft EIR, construction and operational emissions would not exceed the numeric bright-line threshold of 3,000 metric tons of CO_2e annually. The Draft EIR appropriately applies the South Coast Air Quality Management District's (SCAQMD) interim GHG significance threshold of 3,000 metric tons of CO2e per year, a widely recognized threshold for evaluating land use projects. As stated on page 3.4-8 of the Draft EIR, neither the SDAPCD nor the City of National City identifies a numeric GHG significance threshold. In the absence of such a threshold the analysis employs the SCAQMD significance threshold due to the proximities of the South Coast Air Basin and the San Diego Air Basin. The commenter's statement that BNSF, the Project operator, and independent truck drivers would not adhere to the GHG measures outlined in GHG-1 due to lack of motivation or incentive is speculative and discouraged in CEQA (*State CEQA Guidelines* Section 15064(f)(5)). No changes to the Draft EIR are required in response to this comment

Response to Comment 3-3:

This comment states that the Draft EIR has not addressed rail pollution.

Air quality and GHG emissions for the train are addressed in Sections 3.1 *Air Quality* and 3.4 *Greenhouse Gas Emissions* of the Draft EIR. All Project-related emission sources were included in the analysis and determined to be less than significant.

Response to Comment 3-4:

The commenter states the only mitigation for the Project's air quality and health impact is to locate the Project along the BNSF rail line in a non-residential area.

As discussed in Sections 3.1 and 3.4 of the Draft EIR, no significant air quality or GHG impacts would occur as a result of the Proposed Project. The proposed Project Area is located on land designated as industrial and zoned for Medium Manufacturing and Heavy Manufacturing and surrounded by industrial and manufacturing uses. The nearest residential use is the McKinley Apartments, approximately 380 feet east of the Project Area, which are located within the City's Medium Manufacturing zone. The nearest residential zone within the City is the light manufacturing/residential zone, located east of Interstate 5.

Response to Comment 3-5:

This comment states that Section 3.5 of the Draft EIR does not address spills, fires, explosions, and other accidents by railcar, train engine, or diesel truck on any streets near the Project Area to and from the Project.

Please refer to Response to Comment 2-1.

Response to Comment 3-6:

The commenter states the public is unaware of any plan for incidents on City property, Port District properties, or Navy properties in the area. The comment states the Draft EIR has not adequately addressed the possible emergency scenarios. The comment also describes the July 2020 fire incident on the USS Bonhomme Richard.

As stated in Section 3.5 *Hazards and Hazardous Materials*, the topic of adopted emergency plans or emergency evacuation plans was addressed in the Project's Initial Study. Primary evacuation routes for the County include I-5 which is located east of the Project Area. Construction staging would be contained to the Project Area and passage along roadways would be maintained during construction. Impacts were determined to be less than significant. No changes to the Draft EIR are required in response to this comment.

Response to Comment 3-7:

Comment 3-7 states that although the Project's distribution of renewable diesel would result in a reduction of local air pollutants, there will be unavoidable impacts to air quality from truck-generated diesel pollutants, increased noise at night, and heavier traffic in the area.

As described in Section 3.1 *Air Quality* of the Draft EIR, all Project-related emission sources were included in the analysis and determined to be less than significant. There are no significant and unavoidable air quality impacts attributable to the Proposed Project.

As described in Section 3.7 *Noise* of the Draft EIR, construction noise is prohibited on weekdays from 7:00 p.m. to 7:00 a.m. or anytime on weekends or holidays. Operational onsite stationary noise sources include railway activity, internal circulation of trucks, and unloading of rail cars. The Project Area is located on an active rail network in a heavily developed, industrial area. The level of noise within the Project Area would not increase significantly when compared to existing conditions. The Project would result in a total of 385

daily passenger car equivalent trips on roadways with an existing average daily traffic count of 3,600 vehicles. Therefore, operational offsite traffic noise increases would not be perceptible as the Project would not result in a substantial increase in mobile noise sources.

As described in Section 3.8 *Transportation* of the Draft EIR, the Proposed Project is expected to generate 385 passenger car equivalent daily trips which does not exceed the lower 500 average daily trips (ADT) for projects consistent with the City's General Plan. Additionally, there would be less than 50 passenger car equivalent trips during the AM and PM peak hours. The Proposed Project would not result in significantly heavier traffic in the area. No changes to the Draft EIR are required in response to this comment.

Response to Comment 3-8:

Comment 3-8 states the Draft EIR has inadequately addressed the noise issue as rail operators are not required to limit the number of trains on its track. The commenter states it is possible to hear two or more trains running simultaneously.

As stated in Section 3.7 *Noise* of the Draft EIR, noise from rail activity along the BNSF mainline currently exists and is part of the existing condition. Two or more trains would not run simultaneously under the Proposed Project due to physical limitation in the width of the mainline tracks right-of-way in the Project Area. According to the Federal Transit Administration, when two identical sources are each producing sound of the same loudness, the resulting sound level at a given distance would be 3 dB higher than one source under the same conditions. A 10 dBA increase is perceived by the human ear as a doubling in loudness. Therefore, if two identical sources are heard at once, the resulting noise level would not be perceived as a doubling in loudness as the increase would only be 3 dB higher in this scenario. No changes to the Draft EIR are required in response to this comment.

Response to Comment 3-9:

Comment 3-9 is directed at the City's Planning Department and lack of enforcement methods, policies, procedures, and personnel to enforce truck routes. The commenter states there should be discussions about enforcement and fines and the conclusion should be that the Draft EIR does not protect the community from these impacts.

This comment is beyond the scope of the Draft EIR for the Proposed Project. No further response is necessary.

Response to Comment 3-10:

The commenter states the No Project Alternative falsely claims the property would remain largely vacant. The commenter suggests developing the property with multi-story, market rate, and affordable housing for civilian and military households. This comment states that if housing is built on this site, GHG emissions could be avoided with fewer vehicle miles traveled to work by people living just outside the base.

Historical aerial imagery shows that the site has remained vacant since approximately 2018. The Project Area is located in an industrial area, has a land use designation of Industrial, and is zoned as Medium Manufacturing and Heavy Manufacturing. Housing is not an allowable use within these zones. Additionally, a Standard Voluntary Agreement (SVA) and the Land Use Covenant between DTSC and BNSF restrict the BNSF parcels from residential uses. The land meets the criteria for commercial/industrial uses, and not residential uses, as specified in the Interim Measure Workplan (IMW). The property is owned by BNSF and is intended for commercial/industrial use. Development of residential uses would result in a land use conflicts by placing residences adjacent to incompatible uses. No changes to the Draft EIR are required in response to this comment.

Response to Comment 3-11:

This comment states the Draft EIR has not considered a range of possible offsite alternatives. The commenter suggests moving the project away from residential areas such as in areas along the railroad in San Diego County. The commenter suggests an alternative site to analyze.

Please refer to Response to Comment 1-1.

The site proposed by the commenter is within the Military Facilities planning area and within Miramar Marine Corps Air Station property and not available for private development. The parcels north of the commenter's proposed site along Miramar Road are near an existing rail spur that serves several warehouse type uses. This area includes parcels zoned as Commercial Community (CC-4-2) and Industrial Light (IL-2-1). Trucking and transportation terminals are not allowed within the CC zone but are permitted uses within the IL zone. The parcels zoned for industrial use are rail adjacent and appropriately zoned, but are not adequately sized to accommodate the proposed throughput and are not rail-owned. Furthermore, these properties are currently occupied and not available for redevelopment.

No changes to the Draft EIR are required in response to this comment.

Response to Comment 3-12:

The commenter states the Draft EIR requires careful study of the specifics of the operations, an understanding of BNSF's past and present business practices, and the history of toxics in the City. The commenter requests that the City Planning Commission and City Council not certify the Draft EIR and deny all permits.

This comment is noted. No further response is necessary.

Response to Comment 3-13:

This comment provides a map of the alternative location proposed by the commenter in Comment 3-11. The proposed alternative location is marked by a grey star. No response to this comment is necessary.

Letter 4 – California Air Resources Board

Letter 4

CALIFORNIA AIR RESOURCES BOARD

Gavin Newsom, Governor
Yana Garcia, CalEPA Secretary
Liane M. Randolph, Chair

January 27, 2025

David Welch
Associate Planner
City of National City
1243 National City Boulevard
National City, California 91950
dwelch@nationalcityca.gov

Sent via email

Dear David Welch:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the San Diego Clean Fuels Facility LLC Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2024050468. The Project proposes the construction and operation of a new transload facility on the BNSF Railway railroad right of way. The proposed facility would add nine rail spurs and four fixed truck loading spots to transload clean renewable and biofuels (renewable diesel, ethanol, and sustainable aviation fuel) directly from rail cars into trucks. Project trucks would deliver renewable diesel to local retailers within a 35-mile radius, with an average trip distance of 12.3 miles per trip. The Project would result in 144 daily heavy-duty truck trips and 25 passenger automobile trips associated with the onsite workers. The Project's air quality analysis assumes the Project would result in 104 train trips per year. The Project site is located within the City of National City (City), California, which is the lead agency for California Environmental Quality Act purposes. **4-1**

CARB submitted a comment letter, which is attached to this letter, on the Notice of Preparation (NOP) for the DEIR released in May 2024. CARB's comments dated June 7, 2024, highlighted the need to prepare a health risk assessment (HRA) for the Project and encouraged the City and the applicant to implement all existing and emerging zero-emission technologies to minimize exposure to diesel particulate matter (diesel PM) and oxides of nitrogen (NOx) emissions for all neighboring communities, and to minimize the greenhouse gases that contribute to climate change. Due to the Project's proximity to residences already disproportionately burdened by multiple sources of pollution, CARB's comments on the NOP expressed concerns with the potential health risks associated with the construction and operation of the Project.

CARB is concerned that the Project will expose nearby communities in the Portside Community, which has been designated as a disadvantage community under Assembly Bill 617 (AB 617) (C. Garcia, Chapter 136, Statutes of 2017), to elevated levels of **4-2**

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Letter 4 – Continued

air pollution beyond the existing baseline emissions at the Project site.[1] As of November 2023, over $16 million in incentives have been invested in the Portside Community to improve air quality. However, even with this incentive funding, the operation of the Project would expose residences in the Portside Community to air pollutant emissions that could pose a significant health impact. Residences are located north of the Project site, with the closest residence located approximately 380 feet north of the Project site. In addition to residences, Kimball Elementary School, John A. Otis Elementary School, Integrity Charter Elementary School, Central Elementary School, and National City Middle School, are all located within a mile from the Project site. The Portside community is surrounded by existing toxic diesel PM emission sources, which include many industrial uses, Port of San Diego (Port) equipment emissions, rail traffic along BNSF rail lines, and vehicular traffic along Interstate 5. The operation of the Project, in conjunction with the operation of the other industrial development within the City, will expose the nearby communities to elevated levels of air pollution, including diesel PM. Diesel PM is a carcinogen and is linked to cancer and respiratory health effects such as asthma and premature mortality due to heart attacks and cardiopulmonary illnesses.

4-2 cont.

To better address regional air pollution and global climate change, Governor Gavin Newsom signed Executive Order N-79-20 on September 23, 2020. The Executive Order states: "It shall be a goal of the State that 100% of in-state sales of new passenger cars and trucks will be zero-emission by 2035. It shall be a further goal of the State that 100% of medium and heavy-duty vehicles in the State be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. It shall be further a goal of the State to transition to 100% zero-emission off-road vehicles and equipment by 2035 where feasible." The Executive Order further directs the development of regulations to help meet these goals. CARB also requires increasing the use of zero-emission trucks, through the Advanced Clean Trucks Regulation. To ensure that lead agencies, like the Project, stay in step with evolving scientific knowledge to protect public health from adverse air quality and greenhouse gas impacts from the transportation sector, which serves as the basis of the Governor's Executive Order N-79-20, CARB staff urges the City to plan for the use of zero-emission technologies within the Project area as recommended in this letter.

The DEIR Must Use Heavy-Duty Truck Trip Length Distances Supported by Substantial Evidence When Modeling the Project Air Quality Impacts

4-3

The City may have underestimated the Project's mobile source air pollutant emissions in the DEIR by relying on vehicle trip lengths unsupported by substantial evidence. Section 2.3 (Air

[1] Assembly Bill 617, Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2.

Letter 4 – Continued

Quality) of the DEIR states that the "Project trucks would deliver renewable diesel to local retailers within a 35-mile radius, with an average trip distance of 12.3 miles per trip."[2] Based on CARB's review of Appendix B (Air Quality & Greenhouse Gas Emissions Assessment), the City assumed all heavy-duty trucks serving the Project would travel a distance of 12.3 miles per trip. Although the traffic study specifies that heavy-duty trucks would travel a maximum distance of 35 miles, it does not specify or analyze the average trip distance all trucks would make during Project's operations. To provide decision-makers and the public a better understanding of the Project's potential impacts on air quality and public health, the City must either provide substantial evidence supporting the average 12.3-mile trip distance for trucks serving the Project, or revise the Project's air quality impact analysis to conservatively assume a trip length of 35 miles in the Final Environmental Impact Report (FEIR). **4-3 cont.**

The Number of Heavy-Duty Truck Trips Presented in the Project's Description is Inconsistent with the Project Health Risk Analysis

CARB is concerned about the inconsistencies between the trip rates used to estimate the Project's health risk impacts and the Project's traffic study. According to Appendix I (Traffic Study) of the DEIR, the Project would result in 144 daily heavy-duty truck trips. [3] However, in the Project's health risk analysis presented in Appendix B (Air Quality & Greenhouse Gas Emissions Assessment) of the DEIR, the City assumed that the Project would result in 138 daily heavy-duty truck trips.[4] The daily heavy-duty truck trips used in the Project's health risk analysis are approximately six fewer than those presented in the Project's traffic study. CARB is concerned that the City may have underestimated the Project's operational health risk impacts by not using the trip rates provided in the Project's traffic study. The City should re-evaluate the Project's health risk impacts by using heavy-duty daily trip rates consistent with those used in the Project's traffic study. **4-4**

CARB Urges the City to Include a Mitigation Measure that Ensures the Project Uses the Cleanest Switcher and Line-Haul Locomotives Available

To reduce the Project's impact on air quality and public health, CARB urges the City to plan for the use of zero-emission switcher locomotives at the proposed transload facility and to work with BNSF to use zero-emission line-haul locomotives when transporting renewable diesel to the proposed transload facility. As presented in the DEIR, the operation of the Project would result in 104 annual train trips and the operation of switcher locomotives at **4-5**

[2] City of National City. San Diego Clean Fuels Facility LLC Project. Page 3.1-13. Accessible at *https://ceqanet.opr.ca.gov/2024050468/2/Attachment/xKQpvB*
[3] City of National City. San Diego Clean Fuels Facility LLC Project. Appendix I. Page 8. Table 4.1. Accessible at *https://ceqanet.opr.ca.gov/2024050468/2/Attachment/ZPN5Uw*
[4] City of National City. San Diego Clean Fuels Facility LLC Project. Appendix B. Table B-2. Accessible at *https://ceqanet.opr.ca.gov/2024050468/2/Attachment/SKmTiR*

Letter 4 – Continued

the proposed transload facility.[5] The air quality analysis prepared for the Project shows the operation of switchers and line-haul locomotives constitutes a large percentage of the air pollutant emissions generated by the Project. Since the City concluded air pollutant emissions generated during the operation of switchers and line-haul locomotives would not exceed the San Diego County Air Pollution Control District's significance thresholds, the City did not include mitigation measures or project design futures in the DEIR that would reduce locomotive emissions at the proposed transload facility. To reduce the Project's air quality and public health impacts, CARB urges the City to include either a project design feature or mitigation measure that requires all locomotives serving the Project to be Tier 4 or cleaner at the start of Project operations and to prepare for zero-emission locomotive technology by installing on-site charging/fueling infrastructure.

To understand the environmental impacts associated with the operation of trains traveling near California communities, CARB staff conducted an analysis comparing the environmental impact of trucks and trains in the freight transportation sector.[6] Based on the analysis, CARB staff found that by 2030, one train could emit as much as four times the PM2.5 emissions of trucks, due to CARB regulations such as the Advanced Clean Truck Regulation, which aims to accelerate the adoption of zero-emission trucks. Although trains have previously had lower GHG emissions when compared with trucks, CARB's Truck vs. Train Emissions Analysis found that trucks would emit less GHG as more trucks operate with zero emissions in California under CARB regulations.[7] Without the use of zero-emission locomotive technologies, locomotives will continue to be a dirtier mode of transportation than trucks.

Based on emerging technologies in batteries and hydrogen fuel cells, zero-emission locomotive operation could be used to meet the needs of the Project. Battery electric switch locomotives are currently commercially available. CARB estimates that zero-emission technology will be commercially available by 2035 for freight line haul locomotives.[8] CARB has sponsored and continues to sponsor demonstration projects to accelerate the adoption of clean freight technologies and to reduce air pollution caused by the movement of freight throughout the State. CARB's Zero and Near Zero-emission Freight Facilities Program

4-5 cont.

[5] City of National City. San Diego Clean Fuels Facility LLC Project. Appendix B. Table A-1. Accessible at *SKmTiR_WtXrxlBbsRcK6i6rFPeMc5NNxjsh0keyUfmkH7526HultbnR5BdBR1nNiFGe_KPFvDWTVlvpX0*

[6] CARB. Truck vs. Train Emissions Analysis. September 23, 2020. Accessible at: *https://ww2.arb.ca.gov/resources/fact-sheets/truck-vs-train-emissions-analysis*

[7] CARB. Truck vs. Train Emissions Analysis FAQ. November 12, 2021. Accessible at: *https://ww2.arb.ca.gov/resources/fact-sheets/truck-vs-train-emissions-analysis-faq*

[8] CARB. Public Hearing to consider the Proposed In-Use Locomotive Regulation Staff Report: Initial Statement of Reasons. Appendix F. Page 52, 57. Accessible at: *https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/locomotive22/appf.pdf*

Letter 4 – Continued

successfully demonstrated batteries in freight locomotives.[9] With advanced planning and rapid development of battery technology, the Project could be served with zero-emission locomotives. To facilitate zero-emission locomotive operation, CARB urges the City to work with BNSF to electrify key parts or even the entire rail line serving the proposed transload facility. **4-5 cont.**

The City Should Facilitate the Use of Zero-Emission Technology in Heavy-Duty Trucks Serving the Project

Heavy-duty trucks transporting renewable diesel fuel from the proposed transload facility to local retailers would create diesel PM and other air pollutants, further exposing residences and other sensitive uses (e.g., schools, daycares, and senior living facilities) already heavily impacted by air pollution. As presented in the DEIR, the Project would add 144 daily heavy-duty trucks along local roadways. To reduce the Project's potential air quality and public health impacts, CARB urges the City to include either project design features or a mitigation measure that facilitates the transition to all zero-emission heavy-duty trucks, including installing on-site infrastructure to support zero-emission trucks at the proposed transload facility.

While CARB has implemented or is developing regulations that will eventually require the use of zero-emission trucks, the Project must plan for this transition, and the FEIR should explain how the Project will achieve this transition. The Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP) is a part of California Climate Investments incentivizing the purchase of zero-emission trucks. A list of commercially-available zero-emission trucks can be obtained from the HVIP.[10] Based on CARB's review of the zero-emission trucks listed in the HVIP, there are commercially available electric trucks that can meet the cargo transportation needs proposed in the Project. **4-6**

Here are details regarding some of the CARB regulations that are reducing Diesel PM and NOx emissions from trucks within California:

- **Heavy-Duty Low-NOx Omnibus Rule:** The Heavy-Duty Low-NOx Omnibus Rule requires truck emission standards to be reduced from 0.20 to 0.05 grams per brake horsepower-hour (g/bhp-hr) from 2024 to 2026, and to 0.02 g/bhp-hr in 2027.
- **Advanced Clean Trucks Regulation:** The Advanced Clean Trucks Regulation, approved by CARB on June 25, 2020, requires manufacturers to start manufacturing zero-emission trucks and vans beginning in 2024. The rule is expected to result in

[9] California Air Resources Board (CARB), 2020. CARB's Zero and Near Zero-emission Freight Facility Program. Accessible at *https://ww2.arb.ca.gov/news/carb-announces-more-200-million-new-funding-clean-freight-transportation#:~:text=The%20goal%20of%20CARB's%20Zero,commercialization%20of%20these%20technologies%20statewide*

[10] Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: *https://californiahvip.org/*

Letter 4 – Continued

about 100,000 zero-emission trucks in California by the end of 2030 and about 300,000 by 2035. The Advanced Clean Trucks regulation is part of CARB's overall approach to accelerate use of zero-emission medium-and heavy-duty vehicles. CARB approved amendments to the Advanced Clean Trucks regulation in March 2021; the amendments help ensure that more zero-emission vehicles are brought to market. CARB directed staff to ensure that fleets, businesses, and public entities that own or direct the operation of medium- and heavy-duty vehicles in California purchase and operate ZEVs in anticipation of fully ZEV fleets by 2045 everywhere feasible, and specifically to reach:

- 100% zero-emission drayage trucks, last mile delivery, and government fleets by 2035
- 100% zero-emission refuse trucks and local buses by 2040
- 100% zero-emission capable utility fleets by 2040

4-6 cont.

With the implementation of the above regulations, the City would, over time, be required to phase out the use of diesel trucks. To protect the air quality of the communities located at the proposed transload facility and along truck routes, CARB urges the City to include all feasible project design features and/or mitigation measures in the FEIR that would facilitate the transition to exclusively zero-emission trucks.

Conclusion

Although the Project would promote the use of renewable diesel fuels that would help support California's greenhouse gas reduction goals, CARB is concerned that emissions from diesel-powered heavy-duty trucks and locomotives serving the Project would negatively impact the air quality in the surrounding Portside community. As previously discussed in this letter, the Portside community is already heavily impacted by air pollution from the existing operations at the Port, nearby industrial facilities, and roadways. To reduce the harmful impacts of diesel pollution, the City should incorporate the cleanest available switchers, line-haul locomotives, and trucks within the proposed transload facility.

4-7

Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. Please note that CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

Letter 4 – Continued

CARB staff can provide assistance with zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your list of selected State agencies that will receive the FEIR. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist via email at *stanley.armstrong@arb.ca.gov*. **4-7 cont.**

Sincerely,



Matthew O'Donnell, Chief, Risk Reduction Branch

Attachment

cc: State Clearinghouse
state.clearinghouse@opr.ca.gov

Morgan Capilla, NEPA Reviewer, U.S. Environmental Protection Agency, Air Division, Region 9
capilla.morgan@epa.gov

Kathleen Keehan, Supervising Air Resources Specialist – Planning and Incentives, San Deigo County Air Pollution Control District
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Stanley Armstrong, Air Pollution Specialist, Risk Reduction Branch

Letter 4 – Continued

CALIFORNIA AIR RESOURCES BOARD

Gavin Newsom, Governor
Yana Garcia, CalEPA Secretary
Liane M. Randolph, Chair

June 7, 2024

David Welch
Associate Planner
City of National City, Planning Division
1243 National City Boulevard
City of National City, California 91950
dwelch@nationalcityca.gov

Sent via email

Dear David Welch:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Notice of Preparation (NOP) for the San Diego Clean Fuels Facility, LLC Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2024050468. The Project proposes the construction and operation of a new transload facility on the BNSF Railway railroad right of way. The proposed facility would result in the reconfiguration of one existing rail spur and addition of truck loading spots to transload clean renewable and biofuels (renewable diesel, ethanol, and potentially sustainable aviation fuels at a later date) directly from rail cars into trucks to be distributed to local retailers. The Project site is located within the City of National City (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

4-8

The Project, once operational, has the potential to help achieve the goals established in the Governor Gavin Newsom signed Executive Order N-79-20 and the 2022 Scoping Plan for Achieving Carbon Neutrality, and help California attain federal national ambient air quality standards in the State's Implementation Plans.[1,2,3] Although the transport of sustainable fuels, as proposed under the Project, would help reduce air pollutant and greenhouse gas emissions in California, CARB is concerned about the potential for the Project to increase heavy-duty truck and locomotive trips in the nearby Portside Environmental Justice Neighborhoods Community (Portside Community) resulting in an increase in localized health impacts.

[1] Executive Department State of California. Executive Order N-79-20. September 23, 2020. Accessible at *https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf*
[2] CARB. Final 2022 Scoping Plan for Achieving Carbon Neutrality. December 2022. Accessible at *https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents#:~:text=The%202022%20Scoping%20Plan%20for,directed%20by%20Assembly%20Bill%201279*
[3] CARB. 2022 State Strategy for the State Implementation Plan. Adopted September 2022. Accessible at *https://ww2.arb.ca.gov/resources/documents/2022-state-strategy-state-implementation-plan-2022-state-sip-strategy*

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Letter 4 – Continued

The Project Will Increase Exposure to Air Pollution for Residences Located Within the Portside Environmental Justice Neighborhoods Community

In 2018, the Portside Community was nominated by the San Diego County Air Pollution Control District (SDCAPCD) and selected by CARB as a monitoring community and in 2019, the Portside Community was selected for development of a community emissions reduction program. The Project will further expose residents of the Portside Community to elevated levels of air pollution. The Portside Community includes the neighborhoods of Barrio Logan, Logan Heights, and Sherman Heights in the City of San Diego, and West National City within National City. The Portside Community is about eight square miles with a population of approximately 53,000 who are already exposed to the highest levels of air pollution in California. The sources of air pollution within the Portside Community include the freight operations at the Port of San Diego, local industrial sources such as metal recyclers, welding shops, and auto body repair and paint shops, rail traffic along local rail lines, vehicle traffic along Interstate 5 (I-5) and State Route 15 (SR-15) and Port truck traffic through residential areas. Sensitive receptors in the community include 24 schools, 16 licensed daycare facilities, and 2 hospitals.[4,5,6] The community experiences some of the highest rates of asthma, poverty, and unemployment in the region.

4-8 cont.

To protect the residences living near the Project, it should be the City's goal to implement all feasible mitigation measures into the Project's final design to protect the air quality in the Portside Community. The following three pieces of legislation need to be seriously considered when developing a project like this near a disadvantaged community:

Senate Bill 535 (De León, 2012); Disadvantaged Communities

Senate Bill 535 (De León, Chapter 830, 2012)[7] recognizes the potential vulnerability of low-income and disadvantaged communities to poor air quality and requires funds to be spent to benefit disadvantaged communities. The California Environmental Protection Agency (CalEPA) is charged with the duty to identify disadvantaged communities. CalEPA bases its identification of these communities on geographic, socioeconomic, public health, and environmental hazard criteria (Health and Safety Code, section 39711, subsection (a)).

[4] California Department of Education. Accessible at: *https://www.cde.ca.gov/ds/*
[5] California Department of Public Health. GIS Open Data. Accessible at: *https://data-cdphdata.opendata.arcgis.com/*
[6] California Air Resources Board. Updated and Statewide Expansion of the Environmental Justice Screening Method. Accessible at: *https://ww2.arb.ca.gov/sites/default/files/classic/research/apr/past/11-336.pdf*
[7] Senate Bill 535, De León, K., Chapter 800, Statutes of 2012, modified the California Health and Safety Code, adding § 39711, § 39713, § 39715, § 39721and § 39723.

Letter 4 – Continued

CalEPA currently defines a disadvantaged community, from an environmental hazard and socioeconomic standpoint, as a community that scores within the top 25% of the census tracts, as analyzed by the California Communities Environmental Health Screening Tool Version 4.0 (CalEnviroScreen)..[8] The Project is located with the boundary of the Portside Community. Many residences within the Portside Community are located in census tracts with a maximum CalEnviroScreen score in the top 5%, indicating that the area is home to some of the most vulnerable neighborhoods in the State. The air pollution levels in this community routinely exceed state and federal air quality standards.

The City must ensure the implementation of all feasible mitigation, including utilization of zero-emission technologies, to limit the Project's air quality and public health impact on neighboring disadvantaged communities.

Senate Bill 1000 (Leyva, 2016); Environmental Justice Element for Land Use Planning

Senate Bill (SB) 1000 (Leyva, Chapter 587, Statutes of 2016).[9] amended California's Planning and Zoning Law. SB 1000 requires local governments that have identified disadvantaged communities to incorporate the addition of an environmental justice element into their general plans upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018. SB 1000 requires environmental justice elements to identify objectives and policies to reduce unique or compounded health risks in disadvantaged communities. Generally, environmental justice elements will include policies to reduce the community's exposure to pollution through air quality improvement. SB 1000 affirms the need to integrate environmental justice principles into the planning process to prioritize improvements and programs that address the needs of disadvantaged communities, like Portside Community.

4-8 cont.

Assembly Bill 617 (Garcia, 2017); Community Air Protection

The State of California has emphasized protecting local communities from the harmful effects of air pollution through the passage of Assembly Bill (AB) 617 (Garcia, Chapter 136, Statutes of 2017).[10] AB 617 required CARB to develop the process that creates new community-focused and community-driven action to reduce air pollution and improve public health in communities that experience disproportionate burdens from exposure to

[8] "CalEnviroScreen 4.0." Oehha.ca.gov, California Office of Environmental Health Hazard Assessment, June 2018, *https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40*
[9] Senate Bill 1000, Leyva, S., Chapter 587, Statutes of 2016, amended the California Health and Safety Code, § 65302.
[10] Assembly Bill 617, Garcia, C., Chapter 136, Statutes of 2017, modified the California Health and Safety Code, amending § 40920.6, § 42400, and § 42402, and adding § 39607.1, § 40920.8, § 42411, § 42705.5, and § 44391.2.

Letter 4 – Continued

air pollutants. In response to AB 617, CARB established the Community Air Protection Program with the goal of reducing exposure in communities heavily impacted by air pollution. As part of its role in implementing AB 617, CARB must annually consider the selection of communities for development and implementation of community air monitoring plans and/or community emission reduction programs for those communities affected by a high cumulative exposure burden.

CARB approved the Portside Community CERP in July 2021, which describes strategies to achieve emission and exposure reductions throughout this community, including significantly reducing or eliminating emissions from heavy-duty mobile sources and industrial stationary sources, with strategies aimed at reducing emissions from port, marine vessels, truck, and rail activities associated with the Ports. The CERP focuses on concerted efforts by a range of government bodies, local agencies, the Port of San Diego, and the community to reduce these threats, including goals to reduce truck emissions throughout the community and at the Port of San Diego terminals years ahead of CARB regulations. However, the proposed Project would result in an increase in diesel powered heavy-duty trucks and locomotive trips within the Portside Community, in a stark departure from the CERP.

4-8 cont.

The DEIR Should Quantify and Discuss the Potential Cancer Risks from Project Operation

Since the Project would generate diesel powered heavy-duty truck and locomotive traffic along roadways and railways adjacent to residential communities, CARB urges the City to prepare a health risk assessment (HRA) for the Project. The HRA should account for all potential operational health risks from Project-related diesel particulate matter (diesel PM) emission sources, including, but not limited to, back-up generators, on-site diesel-powered equipment, heavy-duty trucks, and locomotives. The HRA should also determine if the operation of the Project in conjunction with past, present, and reasonably foreseeable future projects or activities would result in a cumulative cancer risk impact on nearby residences. To reduce diesel PM exposure and associated cancer risks during the operation of the Project, CARB urges the City to include all the air pollution reduction measures listed below.

- Require all service equipment used within the Project site to be zero-emission. This equipment is widely available and can be purchased using incentive funding from CARB's Clean Off-Road Equipment Voucher Incentive Project (CORE).[11]
- Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the Project site to be zero-emission. A list of commercially available zero-emission trucks can be obtained from the Hybrid and Zero-emission

[11] Clean Off-Road Equipment Voucher Incentive Project. Accessible at: *https://californiacore.org/how-to-participate/*

Letter 4 – Continued

Truck and Bus Voucher Incentive Project (HVIP).[12] Additional incentive funds can be obtained from the Carl Moyer Program and Voucher Incentive Program.[13]

- Restricting diesel-powered trucks and support equipment from idling longer than two minutes while on site.

The HRA prepared in support of the Project should be based on the latest Office of Environmental Health Hazard Assessment's (OEHHA) guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments).[14] The Project's mobile PM emissions used to estimate the Project's cancer risk impacts should be based on CARB's latest 2021 Emission Factors model (EMFAC2021). Mobile emission factors can be easily obtained by running the EMFAC2021 Web Database: *https://arb.ca.gov/emfac/.*

The DEIR Should Quantify and Discuss the Potential Cancer Risks from Project Construction

In addition to the health risks associated with operational diesel PM emissions, health risks associated with construction diesel PM emissions should be included in the air quality section of the DEIR and the Project's HRA. Construction of the Project would result in short-term diesel PM emissions from the use of both on-road and off-road diesel equipment. The OEHHA guidance recommends assessing cancer risks for construction projects lasting longer than two months. Since construction would very likely occur over a period lasting longer than two months, the HRA prepared for the Project should include health risks for existing residences near the Project-site during construction. The HRA should account for all diesel PM emission sources related to Project construction, including, but not limited to, off-road mobile equipment, diesel generators, and on-road heavy-duty trucks. To reduce diesel PM exposure and associated cancer risks during the construction of the Project, CARB urges the City to include all the air pollution reduction measures listed below. **4-8 cont.**

- Ensure the cleanest possible construction practices and equipment are used. This includes eliminating the idling of diesel-powered equipment and providing the necessary infrastructure (e.g., electrical hookups) to support zero-emission and near zero-emission equipment and tools.
- Implement, and plan accordingly for, the necessary infrastructure to support the zero-emission and near zero-emission technology vehicles and equipment that will be operating on site. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, on-site

[12] Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: *https://californiahvip.org/*
[13] Carl Moyer Program and Voucher Incentive Program. *https://ww2.arb.ca.gov/carl-moyer-program-apply*
[14] Office of Environmental Health Hazard Assessment (OEHHA). Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. February 2015. Accessed at: *https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf*.

Letter 4 – Continued

vehicles and equipment, locomotives, and medium-heavy and heavy-heavy duty trucks.

- In construction contracts, include language that requires all off-road diesel-powered equipment used during construction, including locomotives serving the project, to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits, to ensure that emission reductions achieved are equal to or exceed that of a Tier 4 engine.
- In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be battery powered.
- In construction contracts, include language that requires all heavy-duty trucks entering the construction site during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-oxides of nitrogen (NOx) standard.[15]
- In construction contracts, include language that requires all construction equipment to be in compliance with all current air quality regulations. CARB is available to assist in implementing this recommendation.

4-8 cont.

Conclusion

To reduce the exposure of toxic diesel PM emissions in disadvantaged communities already impacted by air pollution, the final design of the Project should include all existing and emerging zero-emission technologies to minimize diesel PM and NOx emissions, as well as the greenhouse gases that contribute to climate change. CARB encourages the City and applicant to implement the emission reduction measures provided in this letter.

Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

[15] In 2013, CARB adopted optional low-NOx emission standards for on-road heavy-duty engines. CARB encourages engine manufacturers to introduce new technologies to reduce NOx emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model-year 2010 and later. CARB's optional low-NOx emission standard is available at: *https://ww2.arb.ca.gov/our-work/programs/optional-reduced-nox-standards*

Letter 4 – Continued

CARB appreciates the opportunity to comment on the NOP for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your State Clearinghouse list of selected State agencies that will receive the DEIR as part of the comment period. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist via email at *stanley.armstrong@arb.ca.gov*.

Sincerely,



Matthew O'Donnell, Branch Chief, Risk Reduction Branch

cc: State Clearinghouse
state.clearinghouse@opr.ca.gov

Paula Forbis, Air Pollution Control Officer, San Diego County Air Pollution Control District
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Stanley Armstrong, Air Pollution Specialist, Risk Reduction Branch

4-8 cont.

Response to California Air Resources Board – Letter 4:

Response to Comment 4-1:

The commenter summarizes the Proposed Project as well as the contents of a CARB letter submitted during the Project Notice of Preparation process, dated June 7, 2024. The comment is introductory and does not address the adequacy of the Draft EIR, and mentions concerns with the potential health risks associated with the construction and operation of the Project. The commenter is referred to Response to Comment 4-3 (trip distance) and 4-4 (truck trips).

Response to Comment 4-2:

The commenter expresses concern regarding potential air quality impacts from the Project on nearby sensitive receptors in the Portside Community, a disadvantaged community designated under Assembly Bill (AB) 617. This concern highlights the proximity of residences and schools to the Project Site, as well as the potential for cumulative impacts from existing sources of DPM) in the area. Additionally, the commenter references Executive Order N-79-20 and the Advanced Clean Trucks Regulation, encouraging the use of zero-emission technologies to mitigate these impacts. Nonetheless, the comment does not address the adequacy of the Draft EIR.

It is noted that the Project directly supports the state's goal to further reduce toxic air pollutants. As stated on page 3.1-10 of the Draft EIR, CARB approved amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation (Off-Road Regulation) in 2022, which are aimed at further reducing emissions from the off-road sector. The amendments require fleets to phase-out use of the oldest and highest polluting off-road diesel vehicles in California; prohibit the addition of high-emitting vehicles to a fleet; and require the use of R99 or R100 renewable diesel in off-road diesel vehicles. Off-road vehicles that are subject to the amended rule are used in construction, mining, industrial operations, and other industries. The amended rule went into effect in January 2024. According to CARB (In-Use Off-Road Diesel-Fueled Fleets Regulation. https://ww2.arb.ca.gov/ourwork/programs/use-road-diesel-fueled-fleets-regulation), the amended rule will reduce harmful air pollutants from over 150,000 in-use off-road diesel vehicles that operate in California and is expected to yield $5.7 billion in health benefits, prevent more than 570 air-quality related deaths and nearly 200 hospitalizations and emergency room visits from 2023 to 2038.

From 2024 through 2038, the current amendments will generate an additional reduction to the current regulation of approximately 31,087 tons of NOx and 2,717 tons of PM2.5. About half of the additional reduction associated with the amended rule is expected to be realized within the first five years of implementation. Moreover, as described on page 3.1-18 of the Draft EIR the Proposed Project's distribution of renewable diesel in the San Diego Area would result in reductions in local air pollutants from the replacement of combustion of regular diesel with renewable diesel. More specifically, for every 1,000 gallons of conventional diesel replaced with renewable diesel, combustion emissions of NOx, CO, and PM would be reduced by 43.5, 28.5, and 0.7 pounds, respectively. As shown on page 3.1-18 of the Draft EIR, the Proposed Project enables the delivery of 336,000 gallons per day of R100 renewable diesel

to replace existing CARB diesel at local retail stations, which would result in the following local tailpipe emission reductions:

- 5.3 million pounds of NOx emissions per year
- 3.5 million pounds of CO emissions per year
- 460 thousand pounds of total hydrocarbons (THC) emissions per year
- 90 thousand pounds of diesel particulate matter (DPM) emissions per year.

Additionally, the Project would reduce overall truck mileage by approximately 2 million miles per year by eliminating lengthy truck trips from Los Angeles/Inland Empire locations, which would remove the following regional tailpipe emissions from the supply chain:

- 7 million pounds of carbon dioxide (CO2) emissions per year
- 74 thousand pounds of NOx emissions per year
- 26 thousand pounds of CO emissions per year
- 10 thousand pounds of THC emissions per year
- 8 hundred pounds of DPM emissions per year

Additionally, the Project supports the state's long-term GHG reduction strategies by facilitating the use of renewable diesel, ethanol, biodiesel, and sustainable aviation fuel, all of which serve as lower-carbon alternatives to conventional petroleum-based fuels. The Project helps reduce transportation-related GHG emissions immediately by shortening fuel transport distances and replacing higher-emission conventional fuels with low-carbon renewable fuels, consistent with the objectives of the 2022 CARB Scoping Plan and the Low Carbon Fuel Standard. As stated on page 3.4-11 of the Draft EIR, renewable diesel alone can reduce lifecycle GHG emissions by up to 70 percent compared to traditional diesel, providing substantial benefits in the near term while ZEV adoption continues to scale.

While the transition to ZEVs is a critical component of California's long-term air toxic-reduction and decarbonization strategy, the technology is not yet widely available or feasible for heavy-duty trucks and locomotives at the scale required to replace all fossil fuel use. The CARB Scoping Plan acknowledges the need for multiple clean fuel solutions in the transportation sector, particularly in applications where electrification remains technically or economically challenging. The Project does not conflict with or delay the adoption of ZEVs but rather serves as an intermediate step in achieving state-mandated emissions reductions, ensuring immediate environmental benefits while ZEV infrastructure and technology continue to develop.

The commenter raises concerns about the health risks posed by the Project to nearby sensitive receptors, including the Portside Community. The Health Risk Assessment (HRA) conducted for the Project follows methodologies outlined by the OEHHA and the SDAPCD. The analysis demonstrates that health risks are below established thresholds of significance. Specifically, the maximum cancer risk for a 70-year residential exposure scenario is 9.00 per million, and for a 30-year exposure scenario is 7.63 per million (updated per comment 4.4), both of which fall below the 10 per million threshold. Additionally, the chronic and acute hazard indices for non-carcinogenic risks are well below the threshold of 1.0, indicating no anticipated adverse health effects. The health risk calculations account for emissions from DPM,

including truck and train activity, onsite and offsite sources, and heavy-duty truck idling and fuel transfer. No changes to the Draft EIR are required in response to this comment.

Response to Comment 4-3:

The commenter raises concerns regarding the assumption of a 12.3-mile average trip length for trucks serving the Project within the emissions calculation modeling, suggesting it may underestimate mobile source air pollutant emissions. The 12.3-mile average trip distance was determined based on the intended operational characteristics of the Project and is considered a conservative estimate as the fuel distributed by the Project would serve local retailers within the surrounding area. While the traffic study identifies a maximum trip distance of 35 miles, the average trip length reflects the proximity of the Project's primary service area. While accounting for an average trip length of 35 miles does not accurately reflect the Project's operational reality, Project emissions have been recalculated in CalEEMod assuming the maximum trip length of 35 miles. The results are shown in the Table below and compared to the SDAPCD's thresholds of significance. As shown, with the increase in truck trip length results in no change in the significance determination occurred. No changes to the Draft EIR are required in response to this comment.

Operational Criteria Air Pollutant Emissions

Emission Source	Pollutant					
	ROG	NO_X	CO	SO_2	PM_{10}	$PM_{2.5}$
Summer Emissions (Pounds per Day)						
CalEEMod Sources (area sources, worker commutes and truck trips)	0.47	2.22	8.39	0.17	5.06	1.57
Calculated Fugitive Evaporation (fuel transfer off-gassing)	32.27	--	--	--	--	--
Mainline SDAB Rail Emissions (65 miles of transport per train trip)	7.67	31.24	5.97	1.96	1.09	1.00
Project Emissions	**40.41**	**33.46**	**14.36**	**2.13**	**6.15**	**2.57**
Winter Emissions (Pounds per Day)						
CalEEMod Sources (area sources, worker commutes and truck trips)	0.46	23.00	8.38	0.17	5.06	1.57

Operational Criteria Air Pollutant Emissions

Emission Source	Pollutant					
	ROG	NO_X	CO	SO_2	PM_{10}	$PM_{2.5}$
Calculated Fugitive Evaporation (fuel transfer off-gassing)	32.27	--	--	--	--	--
Mainline SDAB Rail Emissions (65 miles of transport per train trip)	7.67	31.24	5.97	1.96	1.09	1.00
Project Emissions	**40.40**	**54.24**	**14.35**	**2.13**	**6.15**	**2.57**
Daily Significance Threshold	75	250	550	250	100	55
Exceed Daily Threshold?	**No**	**No**	**No**	**No**	**No**	**No**
Annual Emissions (Tons per Year)						
CalEEMod Sources (area sources, worker commutes and truck trips)	0.08	4.19	1.53	0.03	0.92	0.28
Calculated Fugitive Evaporation (fuel transfer off-gassing)	5.9	--	--	--	--	--
Mainline SDAB Rail Emissions (65 miles of transport per train trip)	1.4	5.7	1.1	0.4	0.2	0.2
Project Emissions	**7.38**	**9.89**	**2.63**	**0.43**	**1.12**	**0.48**
Annual Significance Threshold	*13.7*	*40*	*100*	*40*	*15*	*10*
Exceed Annual Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

Source: [1]CalEEMod version 2022.1. Operational emissions for the Proposed Project fugitive VOC/ROG emissions calculated by US Compliance. Trip counts and distances were calculated based on the Project's daily throughput, truck tanker capacity, and a trip distance of 35 miles. In addition, mainline rail emissions were calculated using the BNSF ton-mile per gallon, Project throughput, BNSF engine inventory and CARB Vision Access Database emission factors in grams per gallon diesel. Refer to Attachment A for Model Data Outputs.

Response to Comment 4-4:

The commenter notes that six additional truck trips were not initially modeled in the Project HRA. To address this oversight, an HRA was conducted for the six heavy-duty truck trips using the same parameters and modeling techniques for off-site truck movement and onsite idling that was used in the

original analysis. The tables below present the Maximum Cancer Risk Summary and the Maximum Non-Carcinogenic Hazard Index Health Risk Summary for the additional six trips and adds the resultant health risk to the health risk previously calculated for the Project. As shown, operational emissions remain below the thresholds.

Maximum Cancer Risk Summary

Maximum Exposure Scenario	Total Maximum Risk
Additional Trucks	
70-Year Exposure Resident	0.08
30-Year Exposure Resident	0.07
25-Year Exposure Worker	0.01
Previous Analysis	
70-Year Exposure Resident	8.92
30-Year Exposure Resident	7.56
25-Year Exposure Worker	1.02
Total	
70-Year Exposure Resident	**9.00**
30-Year Exposure Resident	**7.63**
25-Year Exposure Worker	**1.03**
Significance Threshold	*10*
Exceed Threshold?	**No**

Source: See Attachment B.

Maximum Non-Carcinogenic Hazard Index Health Risk Summary			
Chronic Health Hazard Index			
Exposure Scenario	**Maximum (70 yr.) Residential Hazard**	**Maximum (30 yr.) Residential Hazard**	**Maximum (25 yr.) Worker Hazard**
Additional Trucks	0.000	0.000	0.000
Previous Analysis	0.003	0.003	0.0005
Total	**0.003**	**0.003**	**0.0005**
Significance Threshold	*1*	*1*	*1*
Exceed Threshold?	**No**	**No**	**No**
Acute Health Hazard Index			
Exposure Scenario	**Maximum Residential Hazard**	**Maximum Worker Hazard**	**Maximum School Hazard**
Additional Trucks	0.0000	0.0000	--
Previous Analysis	0.0001	0.0006	--
Total	**0.0001**	**0.0006**	**--**
Significance Threshold	*1*	*1*	*1*
Exceed Threshold?	**No**	**No**	**No**

Source: See Attachment B.

Response to Comment 4-5:

The commenter suggests implementing mitigation measures or Project design features requiring the use of zero-emission switcher and line-haul locomotives, as well as installing on-site charging or fueling infrastructure at the proposed transload facility. While the Project supports California's long-term air quality improvement goals and GHG reduction goals, the adoption of zero-emission locomotive technologies, particularly for line-haul operations, is currently not technically feasible at the scale required to meet the Project's operational needs. According to CARB's own findings, zero-emission line-haul locomotives are not expected to be commercially available until at least 2035. Furthermore, the necessary infrastructure along rail routes, such as charging or hydrogen fueling stations, is still under development and not yet capable of supporting large-scale implementation.

It is important to highlight that the Project's primary purpose is to facilitate the distribution of renewable fuels, including renewable diesel, ethanol, biodiesel, and sustainable aviation fuel. These fuels provide immediate, lower-carbon alternatives to conventional fossil fuels, significantly reducing lifecycle GHG emissions and toxic air pollutants. By enabling the use of renewable fuels, the Project serves as a critical transitional measure while zero-emission locomotive and truck technologies continue to advance.

The environmental analysis for the Project has already accounted for emissions from locomotives and demonstrates that these emissions are below applicable thresholds of significance for both air quality and health risk impacts. The Project does not preclude the use of zero-emission switcher and line-haul locomotives as they become more commercially viable. The Project aligns with California's long-term environmental goals by supporting the transition to cleaner transportation technologies and will remain adaptable to advancements in zero-emission solutions as they become more feasible. No changes to the Draft EIR are required in response to this comment.

Response to Comment 4-6:

The commenter raises concerns regarding DPM and other air pollutants generated by the Project's heavy-duty truck operations, recommending the inclusion of Project design features or mitigation measures to facilitate a transition to zero-emission trucks. While the availability of zero-emission heavy-duty trucks is improving, it remains limited in terms of scale, operational range, and the infrastructure needed to fully replace conventional diesel trucks for the Project's transportation requirements.

The Project provides an immediate air quality benefit by enabling the distribution of renewable fuels such as renewable diesel, biodiesel, ethanol, and sustainable aviation fuel. These fuels significantly reduce lifecycle GHG emissions and air pollutants compared to conventional fossil fuels, serving as a critical interim solution while zero-emission truck technologies continue to mature. Although on-site charging or fueling infrastructure is not currently included in the Project's scope due to the lack of widespread adoption of zero-emission trucks, the Project does not preclude the use of these vehicles as they become more commercially viable. The Project aligns with California's long-term environmental goals by supporting the transition to cleaner transportation technologies and will remain adaptable to advancements in zero-emission solutions as they become more feasible. The commenter references the Heavy-Duty Low-NOx Omnibus Rule and Advanced Clean Trucks Regulation and notes that due to implementation of these regulations; diesel-fueled trucks will be phased out in California. The truck fleet serving the Proposed Project will be required to adhere to these regulations and the air pollutant and GHG inventory associated with the Project will reduce accordingly as these regulations take effect. No changes to the Draft EIR are required in response to this comment.

Response to Comment 4-7:

This comment is the conclusion of the letter which summarizes CARB's concerns with Project emissions from heavy-duty trucks and locomotives affecting the air quality in the Portside Community. Please see Responses to Comments 4-1 through 4-6. No further response is needed.

Response to Comment 4-8:

Comment 4-8 is an attachment to CARB's comment letter dated June 7, 2024 for the Project's NOP. This comment letter was addressed in Section 1.4.1.1 of the Draft EIR. No further response is needed.

Letter 5 – California Coastal Commission

Letter 5

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY GAVIN NEWSOM, *GOVERNOR*

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January 29, 2025

David Welch
Associate Planner
Planning Department
1243 National City Boulevard
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Re: **Draft Environmental Impact Report (DEIR) For a Proposed Fuel Transfer Facility**

Dear Mr. Welch,

Thank you for the opportunity to comment on the San Diego Clean Fuels Terminal, LLC Draft Environmental Impact Report (DEIR). As described in the DEIR, the proposed project would construct a transloading facility on the existing Burlington Northern Santa Fe (BNSF) Railway tracks between Civic Center Drive and West 19th Street. Our June 30, 2023, letter provided comments on the Draft Initial Study and Mitigated Negative Declaration and is included as an attachment.

The proposed project would consist of the following:

- Replace one existing rail turnout.
- Install new receiving and departure track for the facility.
- Install concrete slab pump pads at each transload pump system.
- Install truck load slabs sloped to a drain in the center at each truck transload spot.
- Provide a concrete lined containment basin and connect each truck transload slab drain to the basin.
- Install pumps and piping to move fuels from rail cars to truck loading spots.
- Provide containment enclosures for renewable diesel additive totes.
- Provide track pans below railcars at the transloading rail for conveyance of potential spills to the remote containment basin.
- Provide an office trailer with control center, restrooms, and driver check-out area.
- Provide all weather paving for the facility and circulation as needed to supplement existing yard drives.
- Provide lighting and security for the site as required.
- Provide an on-site A-FFF Floride Free Firefighting platform with additional fire hydrants, as per the National City Fire Department (NCFD) requirements.

5-1

In addition, the fleet mix was adjusted to reflect 72 heavy-duty trucks making both an inbound trip and outbound trip daily for a total of 144 daily heavy-duty truck trips and 25 passenger automobile trips associated with the onsite workers.

1

Letter 5 – Continued

Jurisdiction and Standard of Review
The project would be located in the coastal zone and development within the coastal zone may not commence until a coastal development permit (CDP) has been issued by either the California Coastal Commission (Commission) or a local government that has a Commission-certified local coastal program (LCP). For the proposed project, National City has a Commission-certified LCP and would therefore need to issue a CDP for the project. 5-2

Commission staff would also note that the DEIR identified at least one single-parameter wetland within the project area. Pursuant to Section 30603 of the Coastal Act, local CDP decisions within 100 feet of any wetlands are appealable to the Commission.

Allowed Use in Wetlands
The project site includes at least one single-parameter wetland. Allowed uses within wetlands within the coastal zone are governed by Section 30233 of the Coastal Act which includes a three-part test. The first test requires that the proposed wetland fill activity fit within one of the enumerated use categories described in Coastal Act Section 30233(a)(1)-(7). The second test requires that no feasible less environmentally damaging alternative exists. The third and final test mandates that feasible mitigation measures are provided to minimize any of the project's adverse environmental effects.

Regarding the first test and the enumerated use categories, the DEIR describes the specific project elements that would be located within the wetland area and analyzes how the proposed project is consistent with the enumerated uses of Section 30233. The DEIS also discusses how there is no feasible less environmentally damaging alternative exists pursuant to the second test of Section 30233. 5-3

The final test stipulates that filling of wetlands may be permitted if feasible mitigation measures have been provided to minimize any adverse environmental effects. The DEIR does not include any analysis of impacts to the wetland or mitigation. Rather, the DEIR states "For impacts to CCA areas, the Project would require consistency with the Local Coastal Program (LCP) and concurrence with the City, who presides over the LCP." Pursuant to the certified LCP, wetlands in private ownership, which may be located in industrial areas, are required to be protected from development through the application of an overlay zone or other, appropriate protective measures, including adequate buffers, regulations regarding the design and siting of structures, and open space easements. The DEIR should include an analysis of any temporary or permanent impacts to wetlands and feasible mitigation measures including potential onsite or offsite wetland mitigation. Coastal Commission precedent is to require mitigation at a ratio of 4:1 for permanent impacts to wetlands and 1:1 for temporary impacts to wetlands. A disturbance would be considered a temporary impact if the impacted wetland were able to recover on its own to its pre-disturbance condition within one year of the impact.

Environmental Justice
The ISMND does not include an Environmental Justice (EJ) analysis. However, the surrounding community, including McKinley Apartments and Kimball Elementary School, are sensitive receptors and considered disadvantaged pursuant to SB 535 a Community 5-4

Letter 5 – Continued

Air Protection Program (CAPP) Community under AB 617. Using CalEnviroScreen 4.0[1], the census tract has an extremely high pollution burden for Diesel, proximity to Cleanup sites, Hazardous Waste Facilities, Solid Waste Facilities. This tract also faces high linguistic isolation, homelessness, low-birth weight, and poverty. The Coastal Act explicitly identifies the need for equity and environmental justice and allows the Commission and local government to consider coastal resource issues and impacts through that lens, even when the LCP itself may be silent on such issues (Sections 30013; 30107.3; 30604(h)). The term "environmental justice" is currently understood to include both substantive and procedural rights, meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made (EJ Policy). Moreover, as the ISMND notes, the City has a General Plan element which includes Environmental Justice with several applicable policies to this project specifically, those that deal with procedural rights (Goals HEJ-1; HEJ-1.7) as well as Education and Public Participation Goals E-7/6 and E-7-10. As such, the ISMND should include a comprehensive EJ analysis for impact discussion including EJ screening, a more robust cumulative analysis of air quality (overall analysis rather than site-specific) and proper community consultation consistent with the Commission's EJ Policy and the General Plan Health and Environmental Justice and Education and Public Participation elements within a broad Area of Potential Effects (APE) to ensure those communities are property notified of the project and included in the decision-making process. Currently, the outreach on this project has been inadequate per Commission's EJ policy and the City's General Plan. Finally, the Alternatives should consider the health, and environmental justice impacts when determining viability.

5-4 cont.

Coastal Hazards

The project is located in close proximity to San Diego Bay with surface grades that vary from five to 18 feet above mean sea level (MSL), the DEIR states that the site is not located within a tsunami or seiche zone. The DEIR also states that the project area is not within a flood hazard area.

The appropriate time horizon to use to evaluate sea level rise and coastal hazards depends on the expected useful life of development, after which point development is expected to be removed, replaced, or redeveloped. The Commission's Sea Level Rise Policy Guidance for Critical Infrastructure (SLR Guidance)[2] identifies infrastructure, such as the proposed bio-fuel transfer facility, as "critical" infrastructure given its long design life, generally low adaptive capacity, and the high consequences associated with its failure. In such cases, the Commission's 2024 Sea Level Rise Policy Update[3] recommends that applicants understand the risks associated with the high scenario and anticipate the need to plan for those scenarios over the expected life of the structure, which for critical infrastructure like the fuel transfer station is typically considered to be 100 years.

5-5

Commission staff performed a desktop analysis of the site using the Our Coast Our Future (OCOF) Hazard Map[4] and the area appears to be vulnerable to flooding beginning at 4.1 feet of SLR which is approximately equal to the amount of SLR anticipated by the year

[1] https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40
[2] https://documents.coastal.ca.gov/assets/slr/SLR%20Guidance_Critical%20Infrastructure_12.6.2021.pdf
[3] https://documents.coastal.ca.gov/assets/slr/guidance/2024/2024AdoptedSLRPolicyGuidanceUpdate.pdf
[4] https://ourcoastourfuture.org/hazard-map/

Letter 5 – Continued

2080 under the High scenario. The vulnerabilities of the project site are only expected to increase when considered under a longer design life, the extreme risk aversion scenario and when coupled with major weather events such as a 100-year storm.

The DEIR should define the anticipated life of the project and identify the appropriate SLR projection(s) to analyze over that anticipated lifetime consistent with the Commission's SLR Guidance for critical infrastructure. A range of sea level rise and storm scenarios should be evaluated in order to identify a safe building envelope that avoids hazards over the anticipated life of the development. The DEIR should also analyze and describe the physical impacts from coastal hazards and SLR that may constrain the project site and/or impact the proposed development. Lastly, the DEIR should include an assessment of any SLR adaptation measures that may be implemented as part of the design or implemented in the future, such as relocation or removal if and when the development is threatened by coastal hazards. **5-5 cont.**

Wetland Delineation
Commission staff have reviewed the aquatic resources delineation as well as the biological resources assessment and would note that mulefat (*Baccharis salicifolia*) has a wetland indicator status of FAC. Considering this status the final DEIR should include a regional jurisdictional arid-west wetland delineation for this area. **5-6**

Conclusion
Commission staff appreciates the opportunity to comment on the DEIR and looks forward to continued engagement as we work towards review of any approvals required for the project. Please contact me at Wesley.Horn@coastal.ca.gov if you have any questions or need clarification on any of the points in this letter.

Sincerely,



Wesley Horn
Environmental Scientist
Energy, Ocean Resources and Federal Consistency Division

Attachment 1 - June 30, 2023, CCC comment letter on the Draft Initial Study and Mitigated Negative Declaration

Letter 5 – Continued

STATE OF CALIFORNIA - NATURAL RESOURCES AGENCY GAVIN NEWSOM, *GOVERNOR*

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June 30, 2023

Marin Reeder
Planning Manager
Community Development Dept. – Planning Division
City of National City
1243 National City Blvd., National City, CA 91950

Re: **Draft Initial Study and Mitigated Negative Declaration (ISMND) for the San Diego Clean Fuels Terminal LLC Project**

Dear Mr. Reeder,

Thank you for the opportunity to comment on the San Diego Clean Fuels Terminal, LLC Draft Initial Study and Mitigated Negative Declaration (ISMND). As described in the ISMND, the proposed project would construct a transloading facility on the existing Burlington Northern Santa Fe (BNSF) Railway tracks between Civic Center Drive and West 19th Street.

The proposed project would consist of the following:

- Build nine rail spurs and four fixed truck loading spots to transload bio-diesel fuel, renewable diesel fuel, ethanol and sustainable aviation fuel directly from rail cars into trucks.
- Build tracks and turnouts/crossovers to facilitate car movement in/out and within the transload facility.
- Install concrete slab pump pads at each transload spot.
- Install truck load slabs sloped to a drain in the center at each transload spot.
- Install pumps and piping to move fuels from rail cars to truck loading spots.
- Provide containment enclosures for additive totes.
- Provide a concrete-lined containment basin and pipe each load slab drain to the basin.
- Provide track pans for containment at the rail transloading cars.
- Provide an office trailer with control center, restrooms and driver check-in area.
- Provide all weather paving for the facility and circulation.
- Provide lighting for the site, as needed.

The terminal is expected to receive approximately 115 trucks per day coming in on 18th Street and exiting the facility on W. 19th Street and on to retail client deliveries. Approximately 70-percent of truck trips will occur between 6:00 p.m. and 6:00 a.m. to avoid peak traffic periods.

5-7

Letter 5 – Continued

Jurisdiction and Standard of Review
The project would be located in the coastal zone and development within the coastal zone may not commence until a coastal development permit (CDP) has been issued by either the California Coastal Commission (Commission) or a local government that has a Commission-certified local coastal program (LCP). For the proposed project, National City has a Commission-certified LCP and would therefore need to issue a CDP for the project.

Commission staff would also note that the ISMND identified at least one single-parameter wetland within the project area. Pursuant to Section 30603 of the Coastal Act, local CDP decisions within 100 feet of any wetlands are appealable to the Commission.

Use and Required Permits
The ISMND states that the project is located within a land use designation of Industrial/Salt Production and a Medium Industrial and High Industrial Zone. The ISMND does not specify how the proposed project is consistent with the underlying land uses and zoning. Specifying the use with respect to land uses and zoning under the certified LCP is necessary in order to determine what permits would be required and what standards would apply. As such, the ISMND should also include specific information on the proposed use with respect to the land use, zoning and any required permits or applicable standards.

Allowed Use in Wetlands
The project site includes at least one single-parameter wetland. Allowed uses within wetlands within the coastal zone are governed by Section 30233 of the Coastal Act which includes a three-part test. The first test requires that the proposed wetland fill activity fit within one of the enumerated use categories described in Coastal Act Section 30233(a)(1)-(7). The second test requires that no feasible less environmentally damaging alternative exists. The third and final test mandates that feasible mitigation measures are provided to minimize any of the project's adverse environmental effects.

5-7 cont.

Regarding the first test and the enumerated use categories, the ISMND should describe the specific project elements that would be located within the wetland area and analyze how the proposed project is consistent with the enumerated uses of Section 30233.

Second, the project must demonstrate that no feasible less environmentally damaging alternative exists. Please includes in the ISMND an analysis of alternatives. Alternatives to consider could include, but are not limited to: no project alternative, reconfiguration of the project to avoid the wetland area, consolidation with other existing industrial facilities, or other sites located within or outside of the coastal zone.

The final test stipulates that filling of wetlands may be permitted if feasible mitigation measures have been provided to minimize any adverse environmental effects. The ISMND does not include any analysis of impacts to the wetland or mitigation. Rather, the ISMND states "For impacts to CCA areas, the Project would require consistency with the Local Coastal Program (LCP) and concurrence with the City, who presides over the LCP." Pursuant to the certified LCP, wetlands in private ownership, which may be located in industrial areas, are required to be protected from development through the application of an overlay zone or other, appropriate protective measures, including adequate buffers, regulations regarding the design and siting of structures, and open space easements. The

Letter 5 – Continued

ISMND should include an analysis of any temporary or permanent impacts to wetlands and feasible mitigation measures.

Environmental Justice
The ISMND does not include an Environmental Justice (EJ) analysis. However, a desktop review of the site and surrounding areas on CalEnviroScreen 4.0[1] shows that the census tracts within the area of the proposed project appear to be subject to EJ concerns including housing burden, low-birth weight, linguistic isolation, exposure to high amounts of diesel particulate matter, threats of contamination to groundwater, and proximity to various industrial facilities including hazardous waste and solid waste. The ISMND should include a comprehensive EJ analysis including EJ screening and consultation consistent with the Commission's accepted methodologies within a broad Area of Potential Effects (APE) to ensure those communities are property notified of the project and included in the process.

Coastal Hazards
In Section 4.10.2 of the ISMND, the findings state that although the project is located in close proximity to San Diego Bay with surface grades that vary from five to 18 feet above mean sea level (MSL), the offshore barrier islands and the configuration of the continental shelf in the San Diego vicinity have historically provided relief from tsunamis. The ISNMND also states that the project area is not located below and confined bodies of water and is not within a flood hazard area.

5-7 cont.

The appropriate time horizon to use to evaluate sea level rise and coastal hazards depends on the expected useful life of development, after which point development is expected to be removed, replaced, or redeveloped. The Commission's Sea Level Rise Policy Guidance for Critical Infrastructure (SLR Guidance)[2] identifies infrastructure, such as the proposed bio-fuel transfer facility, as "critical" infrastructure given its long design life, generally low adaptive capacity, and the high consequences associated with its failure. In such cases, the Commission SLR Guidance recommends that applicants understand the risks associated with the medium-high risk aversion scenario and extreme (H++) risk aversion scenario and anticipate the need to plan for those scenarios over the expected life of the structure, which for critical infrastructure like the fuel transfer station is typically considered to be 100 years.

Commission staff performed a desktop analysis of the site using the Our Coast Our Future (OCOF) Hazard Map[3] and the area appears to be vulnerable to flooding beginning at 4.1 feet of SLR which is approximately equal to the amount of SLR anticipated by the year 2080 under the Medium-High risk aversion scenario. The vulnerabilities of the project site are only expected to increase when considered under a longer design life, the extreme risk aversion scenario and when coupled with major weather events such as a 100-year storm.

The ISMND should define the anticipated life of the project and identify the appropriate SLR projection(s) to analyze over that anticipated lifetime consistent with the Commission's SLR Guidance for critical infrastructure. A range of sea level rise and storm

[1] https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40
[2] https://documents.coastal.ca.gov/assets/slr/SLR%20Guidance_Critical%20Infrastructure_12.6.2021.pdf
[3] https://ourcoastourfuture.org/hazard-map/

Letter 5 – Continued

scenarios should be evaluated in order to identify a safe building envelope that avoids hazards over the anticipated life of the development. The ISMND should also analyze and describe the physical impacts from coastal hazards and SLR that may constrain the project site and/or impact the proposed development. Lastly, the ISMND should include an assessment of any SLR adaptation measures that may be implemented as part of the design or implemented in the future, such as relocation or removal if and when the development is threatened by coastal hazards.

Wetland Delineation
Commission staff have reviewed the aquatic resources delineation as well as the biological resources assessment and would note that mulefat (*Baccharis salicifolia*) has a wetland indicator status of FAC. Considering this status the final ISMND should include a regional jurisdictional arid-west wetland delineation for this area.

Hazardous Materials and Water Quality
Sections 4.9 and 4.10 of the ISMND discuss hazardous materials and hydrology and water quality. Both sections generally describe the history of uses at the site, existing onsite drainage characteristics, and the proposed development. Both sections conclude that with implementation of protective measures including Best Management Practices (BMPs) and development of an Emergency Response Plan (ERP) and a Storm Water Pollution Prevention Plan (SWPPP), the project would have no impact or the impact would be less than significant. The ISMND does not provide any specific information on what would be included in the ERP or the SWPPP, nor does it include any specific information on what BMPs would be included.

5-7 cont.

Without this information, it is not possible to evaluate whether the proposed project would effectively protect against spills of hazardous materials and provide effective containment and cleanup facilities. Considering the location of the project approximately 500 meters from the waters of Port of San Diego (Port), it is critically important that the project include sufficient measures to prevent any hazardous materials from construction or operation of the project from migrating to the Port waters. The final ISMND should include a robust discussion of hazardous materials and water quality while also identifying and discussing the specific measures that will be taken to ensure water quality protection, effective containment and cleanup facilities are provided.

Commission staff suggest the ISMND include the following:

- All Federal, State, and local oil pollution and safety laws and regulations that apply to the project and demonstrate compliance with those requirements.
- Industry and safety and pollution prevention standards and best practices proposed to be implemented at the proposed facility (both during and after construction).
- Schedules, methods, and procedures for testing, maintaining, and inspecting pipelines/facilities that contain or handle fuels.
- Methods to reduce spills during transfer and storage, including overfill prevention and immediate spill containment provisions.
- Procedures to assure clear communication during fuel transfer operations.

Letter 5 – Continued

- Information on a worst-case discharge (WCD) spill scenario with respect to the proposed containment system and any feasibility to expand or improve the containment system accommodate a larger spill volume.
- Requirement that any heavy construction equipment use 100% biodiesel fuel and vegetable-oil-based hydraulic fluids. In addition to having lower aquatic toxicity than petroleum products, vegetable-oil based hydraulic fluids and biodiesel fuel are biodegradable and break down more rapidly in the environment than do petroleum products.
- Final plans for construction-phase BMPs, whether in a SWPPP or in a separate document, and post-construction BMPs.
- Prohibit the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, and mulch control netting) that contain plastic netting. Only products that contain loose-weave natural-fiber netting, or that do not contain netting, shall be allowed. Heavy-duty silt fences reinforced by plastic or metal netting shall also be prohibited. All temporary erosion and sediment control products shall be promptly removed when no longer required.
- Runoff control BMPs (such as a concrete wash-out facility or a dewatering tank) shall be installed or implemented to retain, infiltrate, or treat non-stormwater runoff resulting from construction activities.
- BMPs to prevent automotive pollutants from truck load slabs and roadways from being transported by stormwater runoff into coastal waters.
- Cover truck load slabs with a roof to keep stormwater from flowing across the concrete surface and picking up pollutants from spills and vehicular pollutants. Also, all stormwater runoff, including runoff from roof drains and pavements, should be directed away from potentially polluted surfaces (e.g., the truck load slabs) to prevent the transport of pollutants via runoff into coastal waters.
- Details, including sizing calculations, of how the project design will mimic the predevelopment runoff conditions. The amount of impervious surface area that will be added and/or replaced by the proposed project, and the type of surface (e.g., concrete pad, asphalt roadway, or roof-top) should also be specified.
- Details on the function, design, number and sizing of planters being proposed. The project should also specify if the planters are intended to be stormwater treatment BMPs that infiltrate runoff into native soil. If so, calculations should be provided indicating that each planter will be sized and designed to treat the runoff Design Capture Volume from the Drainage Management Area that flows to the planter.

5-7 cont.

5

Letter 5 – Continued

Conclusion

Commission staff appreciates the opportunity to comment on the Draft ISMND and looks forward to continued engagement as we work towards review of any approvals required for the project. Please contact me at Wesley.Horn@coastal.ca.gov if you have any questions or need clarification on any of the points in this letter. **5-7 cont.**

Sincerely,

Wesley Horn
Environmental Scientist
Energy, Ocean Resources and Federal Consistency Division

Response to California Coastal Commission – Letter 5:

Response to Comment 5-1:

The commenter summarizes the Project Description, Project features, and fleet mix. No response is needed.

Response to Comment 5-2:

The commenter summarizes that the Project is located in the Coastal Zone and would need a Coastal Development Permit (CDP) from the City. The California Coastal Commission (CCC) staff also note the Draft EIR identified one single-parameter wetland within the Project Area. No response is needed.

Response to Comment 5-3:

The commenter describes the three-part test used to determine allowed uses within wetlands within the coastal zone. The commenter notes that the Draft EIR adequately describes how the Proposed Project is consistent with one of the enumerated use categories described in Coastal Act Section 30233(a)(1)- (7) and that there is no feasible less environmentally damaging alternative that exists. The commenter states that the third and final test mandates that feasible mitigation measures are provided to minimize any of the project's adverse environmental effects and that the Draft EIR does not include an analysis of impacts to the wetland or mitigation.

As described in 3.2 Biological Resources in the Draft EIR impacts to this feature were analyzed and impacts were determined to be less than significant. The analysis does not conclude that there is no impact. The analysis identifies that the feature is located within the right-of-way of Harrison Avenue and partially to the west of the right-of-way. Historic aerial imagery shows the presence of standing water in 2020 and 2018. From 1994 to 2017, the location where this feature is located was heavily used by trucks serving a small trucking center with a former concrete slab where trucks were parked which no longer exists. The concrete slab was removed in 2018. Off highway vehicle (OHV) use has historically occurred in this location with some regularity since 2018. The analysis further identified that groundwater elevations varied from 14.5 feet to 16.5 feet throughout the Project Site and that the groundwater table within the Project Site does not appear to be influenced by tidal fluctuations in San Diego Bay. For these reasons, the Project Site and this feature is considered to be not subject to frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity, or high concentrations of salts or other substances in the substrate. The soils of the feature are fill soils that are also considered to be non-hydric, showing no hydric indicators based on the field survey. The feature is an isolated puddle whose occurrence is likely due to compaction of fill soils within the existing facility.

A subsequent site visit to evaluate this feature was conducted on July 31, 2025 and a letter report documenting the updated delineation was submitted to Coastal staff on August 18, 2025. The letter report is included as Appendix B to this Final EIR. ECORP conducted this survey and assessment due to updated regulations from the United States Army Corps of Engineers (USACE) and due to reports of changes in the topography at the Project Site subsequent to the public review period for the Draft EIR.

Topographic alterations likely occurred as a result of soil and gravel stockpiling and placement and compaction of those soils and gravel associated with site remediation efforts undertaken by the underlying property owner Burlington Northern and Santa Fe (BNSF) under a separate project. The field survey and assessment determined that the previously mapped depressional feature is no longer present and the area where it was previously located is no longer is capable of holding water. The stormwater runoff through the site now travels just to the east along the previous railroad tracks. For the updated delineation, paired sample point locations were sampled within the location of previously mapped Feature 3 to evaluate whether or not the vegetation, hydrology, and soils data supported an aquatic resource determination. One point was located within the estimated aquatic resource area, and the other point was situated just outside the limits of the estimated aquatic resource area.

During the site visit on July 31, 2025 evidence of the previously mapped depressional feature were absent in the updated delineation due to the placement of gravel and soil fill in that location. Due to soil changes and topographic changes likely the result of site remediation undertaken as a separate project by BNSF, the location met neither vegetation, soils or hydrologic parameters of being a wetland under its current condition. Consistent with CEQA and with the City's discretionary authority, a determination of a less than significant impact to this feature is maintained based on the results of the analysis. No changes to the Draft EIR are required in response to this comment.

Response to Comment 5-4:

This commenter states the Project IS/MND should include a comprehensive Environmental Justice (EJ) analysis for impact discussion including EJ screening. The commenter also suggests that the analysis include a more robust cumulative analysis of air quality, and proper community consultation consistent with the Commission's EJ Policy and the General Plan Health and Environmental Justice and Education and Public Participation elements within a broad Area of Potential Effects (APE) to ensure those communities are property notified of the project and included in the decision-making process. The CCC states the outreach on this Project has been inadequate per Commission's EJ policy and the City's General Plan. The commenter also states the Alternatives should consider the health and environmental justice impacts when determining viability.

It is understood that the commenter meant to state that the Project Draft EIR should include the elements identified above. According to the Environmental Protection Agency's (EPA) Environmental Justice Screening and Mapping Tool (EJScreen), the Project Site is located in the 65th percentile for Low Income Population and the 82nd percentile for People of Color Population (National Percentiles) (USEPA 2023). The Project would create new jobs serving underserved areas in San Diego County using local and regional employees and resources. As demonstrated in the Draft EIR, the Project would not result in a significant contribution to the adverse health impacts associated with criteria pollutants to nearby sensitive receptors and Project operations do not result in a significant contribution to cancer risk in the community. Several clean-up sites are located in areas adjacent to the Project Site and have been remediated and closed under the direction and oversight of the San Diego Regional Water Quality Control Board, Region 9 (RWQCB). The clean-up site located on the Project Site, is the Pacific Steel, Inc.

site, located at 1700 Cleveland Avenue. As part of a separate project, DTSC has completed the remediation of the area behind 1700 Cleveland Avenue. Because the overall proportions of low-income and minority populations in the Project Area are comparable to those within the City of National City, the Proposed Project would not result in impacts that are predominately borne by a low-income or minority population, nor would Project-related impacts be appreciably more severe to these populations. Therefore, the Project would not result in an adverse effect to Environmental Justice populations within a 5-mile radius of the Project location. It is acknowledged that in comparison to San Diego County as a whole, the City has a higher proportion of low-income and minority populations.

The City has fulfilled its obligation for environmental review under CEQA through preparation of the Draft EIR, including requirements for scoping and public review. Furthermore, in alignment with the Commission's environmental justice engagement goals and the City policies promoting public participation, the City has encouraged the Applicant to conduct their own outreach independently and the Applicant has engaged in outreach with the local community throughout the environmental review process. As demonstrated through the analysis provided within the Draft EIR, impacts were found to be less than significant or less than significant with mitigation. No changes to the Draft EIR are required in response to this comment.

Response to Comment 5-5:

The CCC states the appropriate time horizon to use to evaluate sea level rise (SLR) and coastal hazards depends on the expected useful life of development. The CCC's 2024 SLR Policy Update states the life of critical infrastructure, like the proposed fuel transfer station, is considered to be 100 years. The commenter states the Draft EIR should (1) define the anticipated life of the project and identify the appropriate SLR projection(s) to analyze over that anticipated lifetime consistent with the Commission's SLR Guidance for critical infrastructure, (2) analyze and describe the physical impacts from coastal hazards and SLR that may constrain the project site and/or impact the proposed development, and (3) should include an assessment of any SLR adaptation measures that may be implemented as part of the design or implemented in the future, such as relocation or removal if and when the development is threatened by coastal hazards.

CEQA requires that the environmental impacts from a project be analyzed. However, it does not require an analysis of impacts of the environment on a project. For informational purposes, a discussion is provided to address this comment. The Project lifetime is expected to be 30 years but could have a potential useful life of up to 100 years. Currently, the best available science on SLR projections in California is provided in the State of California Sea Level Rise Guidance (OPC 2024). The State guidance adopts the same framework and approach used by the federal government and provides five sea level rise scenarios that have been regionalized for California-specific use. The state guidance also includes a decision framework to guide selection of appropriate sea level scenarios, primarily recommending evaluation of the intermediate, intermediate-high, and/or high scenarios depending on the context of the planning effort/project. This information is reflected in the Coastal Commission's Sea Level Rise Policy

Guidance (CCC 2024). The table below shows the sea level rise scenarios for the San Diego tide gauge, the closest tide gauge to the Project Site.

TABLE 14. *Sea Level Scenarios for San Diego.*

Median values of Sea Level Scenarios, in feet, for each decade from 2020 to 2150, with a baseline of 2000. All median scenario values incorporate the local estimate of vertical land motion.

YEAR	LOW	INT-LOW	INTERMEDIATE	INT-HIGH	HIGH
2020	0.2	0.2	0.3	0.3	0.3
2030	0.3	0.4	0.4	0.5	0.5
2040	0.4	0.5	0.6	0.7	0.8
2050	0.5	0.7	0.8	1.1	1.3
2060	0.6	0.9	1.1	1.6	2.0
2070	0.7	1.0	1.4	2.3	3.0
2080	0.8	1.2	1.9	3.1	4.1
2090	0.9	1.4	2.5	3.9	5.4
2100	1.0	1.6	3.2	4.9	6.7
2110	1.1	1.8	3.9	5.7	8.0
2120	1.2	2.1	4.5	6.5	9.1
2130	1.3	2.3	5.0	7.1	10.0
2140	1.3	2.5	5.6	7.7	11.0
2150	1.4	2.7	6.1	8.3	11.9

The existing elevation throughout the Project Site ranges from approximately 8 to 13 feet above mean sea level. Based on the United States Geologic Service's Coastal Storm Modeling System (CoSMoS), as shown on the Our Coast Our Future (OCOF) Hazards Map, the Project Site could begin to see flooding impacts starting with 2.5 feet of SLR combined with a 100-year storm. Starting with 4.1 feet of SLR, portions of the site may be flooded under normal, non-storm conditions. Based on the same mapping, the main pathway for flooding appears to be from the 7th Street Channel to the north, such that the northern portions of the Project Site would be impacted sooner/with less SLR. With increasing SLR (or with increasing SLR plus storm conditions), more portions of the Project Site could be flooded. CoSMoS/OCOF also provides information on groundwater changes resulting from sea level rise. The Project Site is already in an area with a shallow groundwater table, and SLR could result in an emergent groundwater table (i.e. groundwater flooding) in portions of the project site with 2.5 feet of SLR. As the table above shows, 2.5 feet of SLR could occur as soon as 2065 under the High scenario, or closer to 2090 (or later) under the more likely Intermediate Scenario. Similarly, 4.1 feet of SLR could occur as soon as 2080 under the High Scenario, or after 2110 under the Intermediate Scenario. As noted above, the Project lifetime is expected to be 30 years but could have a potential useful life of up to 100 years.

Based on the data, the Project Site and the proposed development would not be exposed to hazards over the anticipated 30-year lifetime, but could start to be exposed to flooding soon after under a High scenario. Even under the High scenario though, initial risks to proposed development may not be

significant. As identified above, initial flooding impacts would occur as a result of 2.5 feet of SLR combined with a 100-year storm. Thus, flooding would be a rare, short-duration event rather than a routine, prolonged condition. Moreover, these earliest impacts would be primarily confined to the northern portion of the Project Site (north of W 16th Street). This portion of the Project Site would only include construction of railroad tracks, which would likely be able to withstand occasional storm flooding impacts.

Additionally, some Project design features incorporated into the Project already take into account SLR adaptation strategies, including the relocation and elevation of utility infrastructure and placement of the fuel transload facilities and equipment to areas outside of the risk for coastal flooding conditions. Specifically, fuel transload facilities and equipment and other proposed development are primarily located on southerly portions of the Project Site, which would not be exposed to flood impacts under 2.5 feet of SLR (even with a 100-year storm).

Overall, the proposed development will adequately minimize risks associated with flooding, including as exacerbated by sea level rise, over the proposed 30-year anticipated lifetime. However, coastal hazards risks would increase in the following years with additional sea level rise. No changes to the Draft EIR are required in response to this comment.

Response to Comment 5-6:

This comment states the Final EIR should include a regional jurisdictional arid-west wetland delineation for the Project Area since the mulefat (*Baccharis salicifolia*) identified in the aquatic resources delineation and biological resources assessment has a wetland indicator status of Facultative (FAC). In this case the mule fat is also not associated with any water body, as it is isolated. Its occurrence is within an upland environment. The 1981 CCC State Wide Interpretive Guidelines also define riparian habitats under the CCA as an area of riparian vegetation. This vegetation is an association of plant species which grows adjacent to freshwater watercourses, including perennial and intermittent streams, lakes, and other bodies of freshwater.

The commenter further states that the Final EIR should include a regional jurisdictional arid-west wetland delineation for this area. See Attachment B of the Aquatic Resources Delineation (ARD) report (appended to the Draft IS/MND) with the Arid West OHWM datasheets for Features 1 and 2. Mulefat was not associated with either of these features (not located within the drainages or at the top-of-bank) therefore an Arid West OHWM datasheet was not filled out for the disturbed mulefat vegetation community. The letter report documenting the updated delineation included as Appendix B to this Final EIR provides arid west wetland delineation forms for Feature 3.

Response to Comment 5-7:

Comment 5-7 is an attachment to the CCC's comment letter dated June 30, 2023 for the Project's Draft IS/MND. This comment letter was provided in response to the IS/MND and not the current Draft EIR. No further response is needed.

Letter 6 – Eric Suarez

Letter 6

From: Erik S [mailto:suarezerik38@gmail.com]
Sent: Wednesday, January 29, 2025 3:13 PM
To: David Welch <dwelch@nationalcityca.gov>
Subject: Re: San Diego Clean Fuels Terminal LLC Project (Project) State Clearinghouse No. 2023050699 (Comments)

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Hi David,

I have had a chance to review the environmental impact report (EIR) and I would like to provide my comments and observations:

Comment 1:

In its correspondence with the City, the California Air Resources Board highlighted a few issues that were insufficiently addressed in the EIR or any city communications as far as I am aware. These relate to:

1. ***The City Used Incorrect Trip Lengths When Modeling the Project's Air Quality Impacts from Mobile Sources***

2. ***The City Used Incorrect Vehicle Fleet Mixes to Evaluate the Project's Air Quality Impacts from Mobile Sources***

3. ***The City Must Provide Substantial Evidence Demonstrating the Project Would Not Increase Line-Haul Locomotive Traffic***

4. ***The City Must Do More to Reduce the Project's Impact on Air Quality and Public Health***

The CARB's fourth point specifically should be taken not just in the scope of this proposed project but the City's overall effort to improve the quality of life by making spaces that are not only visually and culturally engaging but undoing past harms.

6-1

Letter 6 – Continued

Comment 2:

Section 5.3 of the EIR considers alternatives to the project but rejected and provides the following explanation:

"The Project proponent considered alternative locations along both Union Pacific and BNSF rail lines. In addition to being in a location that would meet most of the basic Project objectives, the property requirements include being rail-owned, rail adjacent, adequately sized to accommodate the required throughput, and appropriately zoned to accommodate this type of project"

The extended explanation goes on to describe that the proposed project location was selected due to the existing infrastructure that serves to accommodate the desired objectives, and no further outside locations exist. In other words, this location is desirable because of the existing infrastructure. A roundabout way saying that this community deserves to have heavy machinery running through its city because it already has other source of pollutants. As shown by the higher than expected rates of asthma and cancer in National City and neighborhoods in Southeast San Diego are acutely aware of the stressors the area is facing such as emissions from cargo ships, trucks, and cranes due to its proximity to the Port of San Diego; industrial emissions from junkyards and industrial repair shops; leaded gas emissions from multiple government-operated helicopters; and the fact that multiple highways slice through this geographically small area. To emphasize this point, within its 5 square mile boundaries National City alone is served by 3 major highways. To be sure, these stressors were introduced to our communities not through the will of the people that live here since their creation dates to a time when the residents here were still largely neglected by corporate and government interests. **6-2**

The alternative of leaving the area as is or changing the current zoning of mixed/heavy manufacturing use may take more courage and wherewithal but it would be a better starting point to undo the generations-long worth of damage to our neighborhoods by policymakers and industrialists who have profited off polluting our neighborhoods.

I also believe following through with this proposed project is going in the opposite direction of both the will of the residents and what our elected officials had in mind when drafting SB 535 and SB 1000 which targets these types of facilities in these types of neighborhoods. In reading the comments provided by various stakeholders on the draft EIR there is a clear indication of community opposition to the project, which must be taken seriously. The increasing number of odor complaints and air quality concerns reflect a growing frustration among residents who already deal with significant pollution burdens. Ignoring community sentiment will lead to further erosion of trust between local government and residents, as well as potential social unrest.

Ultimately, this project provides little benefit to the residents of National City while most of the gain transfers into the pockets of concentrated wealthy interests. While I commend San Diego Clean Fuels attempts at remediating some glaring issues, it does appear that the drafters of the EIR as well as San Diego Clean Fuels believe some of the salient points are outside the scope of the EIR. In my opinion, environmental justice and how this proposed refueling depot fits into our community is interrelated. When you can't see how the problem of placing hundreds of large trucks running on diesel, a known carcinogen, and "some" zero emission **6-3**

Letter 6 – Continued

approved pursuant to any of them. Nothing in this Stipulation is intended to nor shall it be construed to eliminate, reduce, or otherwise lessen Pacific Steel's obligations under the 2004 Final Judgment, including the 2004 Consent Agreement, the Interim Measures Plan, or other workplans submitted and approved pursuant to any of them.

The two parcels on the western portion of the Site that are owned by BNSF Railway (BNSF Parcels) and were leased to PSI for metal recycling facility usage until approximately February 2023. On May 31, 2022, DTSC approved the Interim Measures Workplan (IMW) to address the remaining soil impacts on the BNSF Parcels.

On December 6, 2022, DTSC issued to PSI a Notice of Noncompliance with the 2004 CACA and the 2016 Consent Judgement due to PSI's lack of IMW implementation and submittal of the CMS. On February 3, 2023, PSI submitted the required CMS workplan and provided a timeline for IMW implementation that contained no planned start date for the IMW work.

To facilitate the redevelopment of its property, BNSF requested a Standard Voluntary Agreement (SVA) with DTSC for the BNSF Parcels of the Site. On April 11, 2023, DTSC entered into an SVA with BNSF. BNSF conducted removal actions in August 2023 in accordance with the IMW, which resulted in the BNSF Parcels being able to meet the criteria for commercial/industrial uses as specified in the IMW, so long as institutional controls, such as Land Use Covenant, were relied upon to restrict the land from residential uses. **7-13 cont.**

The BNSF Parcels of the Site still remain as part of the facility as defined in the CACA, Judgement and Stipulation, and as stated in the DTSC-approved CMS Workplan (SCS Engineering, July 31, 2023). BNSF's work on the Site in accordance with the IMW does not relieve PSI of its liability to the Site, nor does it change the Site boundaries.

Upon DTSC's request, PSI prepared the CMS Report. Below is the timeline of CMS Report review and revision:

1. On January 30, 2024, DTSC received the draft CMS Report;
2. On April 4, 2024, DTSC provided comment letter, stating the discrepancy of Site boundary with what is defined in the CACA and CMS Workplan;

Letter 6 – Continued

David Welch
Associate Planner
City of National City
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City Hall Hours: M-Th 7a-6p

From: Erik S |mailto:suarezerik38@gmail.com|
Sent: Tuesday, January 7, 2025 8:00 AM
To: David Welch <dwelch@nationalcityca.gov>
Subject: San Diego Clean Fuels Terminal LLC Project (Project) State Clearinghouse No. 2023050699 (Comments)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear David Welch,

I hope this message finds you well. I am writing to express my concerns regarding the proposed San Diego Clean Fuels Terminal LLC Project in National City.

Firstly, the Air Quality and Greenhouse Gas Emissions Assessment raises concerns about the potential adverse impacts on local air quality and greenhouse gas emissions. The establishment of a renewable diesel fuel facility, while aimed at promoting sustainability, will lead to increased emissions during construction and operation phases. This would exacerbate existing air quality issues in the region, which is already facing challenges related to pollution and health impacts associated with poor air quality. While the project may help in meeting Gavin Newsom's ambitious goal laid out in his Executive Order N-79-20 to strengthen the economy and promote clean transportation, it does so at the expense of the disadvantaged communities that the Order aims to empower.

Secondly, the Biological Resources Assessment highlights the potential impact on local ecosystems and wildlife. The project site is currently undeveloped, providing critical habitats that could be disrupted by construction and operational activities. The potential loss of biodiversity and harm to local species should be a significant consideration in the decision-making process.

Lastly, the comments provided by the California Air Resources Board emphasize the need for thorough evaluations of the project's long-term environmental impacts. I won't reiterate here but they point out valuable points on some of the key oversights in the Mitigated Negative Declarations. It is crucial that we prioritize projects that genuinely contribute to environmental sustainability without compromising local ecosystems and community health.

Given these concerns, I urge you and the planning team to reconsider the implications of moving forward with the proposed renewable diesel fuel facility. It may be beneficial to explore alternative solutions that align with our environmental goals while safeguarding the health and well-being of our community and natural resources.

6-4 cont.

Letter 6 – Continued

Thank you for considering these important factors. I look forward to your response and to further discussions on how we can work together to ensure a sustainable and healthy future for National City.

Best regards,

Erik Suarez

Sources:

CARB Comments: https://files.ceqanet.opr.ca.gov/288252-1/attachment/OWJeKp4zvuScK2gsVaOs7rt-TdI9Yu0gzS89BfGe08u9fL6zzK0wh9dUdwNHCEGhEfjYim0vYtd0Plxv0

Air Quality & Greenhouse Gas Emissions Assessment: https://files.ceqanet.opr.ca.gov/288252-1/attachment/_SmE-YMoRaLKkBWS2v58UkfsKYzs0H3Y1pAJjZ_Bfae4YdiZxGKl2GSj3HO1qmC6Ma73VYRibyysrCLy0

Biological Resources Assesesment: https://files.ceqanet.opr.ca.gov/288252-1/attachment/9bqgjsnR97cWCsKwkZ4KduxTWd0r7bzKC0u2GeJt0MMan8LarOVa898_gMlv5NrxvtAxtx8tCAj91YJ90

6-4 cont.

Response to Eric Suarez – Letter 6:

Response to Comment 6-1:

The commenter highlights issues raised by CARB in Letter 4 (page 3-17), including the following:

1) The City used incorrect trip lengths when modeling the Project's air quality impacts from mobile sources.

   Please refer to Response to Comment 4-3.

2) The City used incorrect vehicle fleet mixes to evaluate the Project's air quality impacts from mobile sources.

   Please refer to Response to Comment 4-4.

3) The City must provide substantial evidence demonstrating the Project would not increase line-haul locomotive traffic.

   Please refer to Response to Comment 4-5.

4) The City must do more to reduce the Project's impacts on air quality and public health.

   Please refer to Response to Comment 4-6 and 4-7. Air quality and public health improvements unrelated to the Proposed Project are beyond the scope of the Draft EIR.

Response to Comment 6-2:

The commenter describes the Project's property requirements as discussed in Section 5.3.1 of the Draft EIR and states the Project Proponent chose this location because of the existing infrastructure. The commenter also expresses concern with the sources of pollution and increased rates of asthma and cancer in National City. This comment describes sources of emissions, including nearby cargo ships, trucks, cranes, junkyards, industrial repair shops, and highways. The commenter suggests changing the current zoning of the Project Area and surrounding area from mixed/heavy manufacturing to begin to undo damage to the neighborhood. The commenter also states there is an increasing number of odor complaints and air quality concerns which reflect the growing frustration among residents.

As described in Response to Comment 1-1, in compliance with CEQA Guidelines Section 15126.6(a), the Draft EIR considered a range of reasonable alternatives to the Project, or to the location of the Project that would feasibly attain most of the basic objectives of the Project but avoid or substantially lessen any of the significant effects of the Project. Under CEQA, not every conceivable alternative needs to be considered; rather, it must consider a reasonable range of potentially feasible alternatives to the Project that will foster informed decision making and public participation. As described in Section 5.3.1 of the Draft EIR, *Alternative Location Outside of National City*, the City considered alternative locations within and outside of both the City limits and Portside Communities along both Union Pacific and BNSF rail lines. The siting of fuel transfer facilities of this magnitude requires a substantial flat area large enough to accommodate multiple rail cars queued off of the railroad mainline or primary rail spur so as to not

obstruct other rail activity. As stated in Section 5.3.1 of the Draft EIR, the Offsite Alternative location was selected as it meets the basic Project objectives and property requirements such as being rail-owned, rail adjacent, adequately sized to accommodate the required throughput, and appropriately zoned to accommodate this type of project. Alternative locations considered were either unavailable for development, would not feasibly accommodate a project such as the Proposed Project, or would not reduce any significant impacts because none are identified for the Proposed Project. No changes to the Draft EIR are required in response to this comment.

As discussed in Section 3.1 *Air Quality* of the Draft EIR, the nearest sensitive receptor to the Project Area is McKinley Apartments, located approximately 380 feet east of the Project Area. The Project's construction and operational emissions would not exceed any SDAPCD thresholds for any criteria air pollutants during construction or operations. The Project's HRA conducted for the Proposed Project determined that neither Project operations nor construction would result in a significant contribution to cancer risk in the community.

Please refer to Response to Comment 1-3 regarding odors. No changes to the Draft EIR are required in response to this comment.

Response to Comment 6-3:

The commenter states the Proposed Project provides little benefit to the National City residents. The commenter acknowledges that the Project Proponent has tried to remediate issues the community has with the Project but disagrees with the Draft EIR's determination that some issues are outside the scope of the EIR.

This comment does not address the adequacy of the Draft EIR. No response is necessary.

Response to Comment 6-4:

Comment 6-4 is an email exchange between the commenter and City. The commenter expresses personal concerns with the Proposed Project and requests that the City consider them in their decision making process. The City informed him of the recent Draft EIR which could address his concerns and informed him of the public review period for the EIR. No response is necessary.

Letter 7 – Environmental Health Coalition

Letter 7

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January 29, 2025

David Welch, Associate Planner
Planning Department, National City
1243 National City Boulevard
National City, CA 91950

Via Electronic Mail
dwelch@nationalcityca.gov

RE: USD Fuel Transfer Facility Draft EIR
EHC CEQA Comments

Dear Mr. Welch:

Please accept the following comments regarding the USD Fuel Transfer Facility (Project) on behalf of our client, Environmental Health Coalition (EHC). For over 40 years, EHC has been dedicated to achieving environmental and social justice by empowering San Diego communities.

EHC advocates for Portside communities most directly impacted by industrial operations at the Port and surrounding communities and is particularly worried about the proposed Project's impacts on the residents of National City. As detailed below, the Draft Environmental Impact Reports (DEIR) fails to adequately characterize and mitigate the significant impacts to water quality, air quality, human beings, hazardous impacts, greenhouse gas emissions (GHGs), and transportation impacts. As a result, the DEIR must be revised. **7-1**

A. The DEIR Fails to Adequately Analyze and Mitigate Water Quality Impacts, Biological, and Land Use Impacts

a. Impacts to Wetlands and Potential ESHA Are Significant and Unmitigated

The Project will result in significant unmitigated impacts to water quality and biological resources. Though the DEIR fails to analyze in any detail the Coastal Act wetlands onsite, it acknowledges that .144 acres of the Project area contain Coastal Act wetland features. Instead of adequately disclosing and assessing the Project's impacts on these Coastal wetlands (which will be significant), the DEIR mischaracterizes the wetland as a "feature" "puddle" and "depression" to mislead the public and decisionmakers regarding the Project's intent to fill and degrade a wetland.[1] The DEIR cryptically admits the wetland will be destroyed in the Land Use analysis: "The Proposed Project would eliminate this puddle…"[2] **7-2**

[1] DEIR, pp. 3.2-14 to 3.2-16.
[2] DEIR, p. 3.6-8.

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Notwithstanding the DEIR's contrary finding, the Project is not allowed pursuant to Coastal Act Section 30233(a)(1).[3] First, it is not coastal dependent as a transloading facility can be located outside of the coast. Indeed, most of the BNSF rail network is outside the Coastal Zone. Further, the proposed Project is not the least environmentally damaging alternative as alternative locations outside of the Coastal Zone exist. Lastly, because the DEIR fails to analyze the Project's impacts on the wetland (improperly deferring such analysis), it certainly does not minimize such impacts or propose any mitigation measures.[4]

In that regard, the DEIR fails to disclose the extent of the Project's impacts on the Coastal Act wetland. Rather, it improperly defers such analysis, simply stating "[f]ill within jurisdictional features to the CCA would require City concurrence pursuant to the LCP."[5] This is woefully inadequate. The DEIR must *inform* the City's assessment of the Project's conformance with the LCP. The Coastal Commission has already advised the City of its requirement to do so.[6]

Indeed, the City's LCP requires open space easements be executed over any identified wetland resources and that adequate 100-foot buffers be provided.[7] Diking, dredging, and filling of wetlands shall be permitted only:

7-2 cont.

i. where there is no feasible less environmentally damaging alternative, **and**
ii. where feasible mitigation measures are provided to minimize adverse environmental effects, **and**
iii. where limited to incidental public service purposes, restoration purposes, and nature study, **and**
iv. where a marsh restoration program has been approved by the California Coastal Commission.[8]

The DEIR makes no mention of this policy and fails to analyze the Project's consistency therewith, likely because the Project is inconsistent with the LCP. Instead, the DEIR dismisses Alternative 3 based on its impacts to wetlands pursuant to Public Resources Code Section 30233 – failing to mention the Project's own similar impact.[9]

However, the Project will result in impacts to .144 acres of California Coastal Commission wetland but nonetheless concludes it will not result in a significant impact. The Project will build "tracks 8 and 9, mechanical skids, pumps and piping, and mechanical track

[3] DEIR, p. 3.2-15.
[4] See Coastal Commission Comments, June 30, 2023.
[5] DEIR, ES-16 to ES-17.
[6] Coastal Commission Comments, June 30, 2023, pp. 2-3.
[7] LCP, Section X.B.4.
[8] Id., Section X.B.4.e., emphasis added.
[9] DEIR, p. 5-21.

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bumpers" within the wetland – these are significant impacts that will result in the unlawful fill and degradation of the wetland.[10] Counterfactually, the DEIR nonetheless concludes the onsite drainage improvements would "result in an overall improvement in water quality for the region, a less than significant impact was identified for impacts to the [wetland]."[11]

The DEIR also fails to disclose whether any Environmentally Sensitive Habitat Areas (ESHA) occur onsite – despite the fact that wetlands may constitute ESHA.[12] This is contrary to CEQA. In a similar context, an EIR was defective where a lead agency failed to analyze and disclose potential impacts to ESHA:

> **Here the principal issue is whether the Banning Ranch EIR was required to identify potential ESHA and analyze the impacts of the project on those areas**. CEQA requires every EIR to identify "[a]ll significant effects on the environment of the proposed project," which would generally include effects on sensitive habitat areas. (§ 21100, subd. (b)(1); see Guidelines, § 15126.2.)
>
> **The City argues that CEQA imposes no duty to consider the Coastal Act's ESHA requirements**. It claims it was sufficient for the Banning Ranch EIR to analyze the impacts of the NBR project, including those on sensitive habitat areas, without accounting for potential ESHA. **Essentially, the City claims it was entitled to ignore the fact that Banning Ranch is in the coastal zone**. **The City's position is untenable**. CEQA sets out a fundamental policy requiring local agencies to "integrate the requirements of this division with planning and environmental review procedures otherwise required by law or by local practice so that all those procedures, to the maximum feasible extent, run concurrently, rather than consecutively." (§ 21003, subd. (a).) The CEQA Guidelines similarly specify that "[t]o the extent possible, the EIR process should be combined with the existing planning, review, and project approval process used by each public agency." (Guidelines, § 15080)[13]

7-2 cont.

Because the Project is inconsistent with the City's LCP and will result in significant impacts to wetland resources and potential EHSA not disclosed in the DEIR, the document fails to serve its informational purpose.

[10] DEIR, p. 3.2-15.
[11] DEIR, p. 3.2-16.
[12] Public Resources Code Section 30107.5 [" 'Environmentally sensitive area' means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."]
[13] *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 936, emphasis added.

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b. The DEIR Fails to Analyze the Project's Inconsistency with the LCP

As noted above, the DEIR fails to analyze the Project's consistency with the LCP for impacts to Coastal Act wetlands. However, the DEIR fails wholesale to analyze the Project's consistency with the LCP. Though the DEIR acknowledges the Project requires a Coastal Development Permit from the City, and that the City has a certified LCP, it analyzes the Project's consistency with the Coastal Act – not the LCP.[14] **7-2 cont.**

B. Air Quality Impacts Are Significant and Unmitigated

a. Health Risk From Particulate Matter

The Project will also result in significant air quality impacts that have not been adequately analyzed in the DEIR, despite comments from APCD and EHC noting the inadequacy during the comment period on the MND. Once again, the DEIR underestimates the Project's cancer risk impacts. As noted by the APCD, the EIR incorrectly concludes the Project will not result in a significant air quality impact based on its use of an improper and unsupported threshold of significance.[15] The DEIR incorrectly states the San Diego APCD cancer risk threshold is ten in one million.[16] However, the Rule 1200 threshold is one in one million. APCD previously urged the City apply this threshold and mitigate any resultant impacts: **7-3**

> The City of National City should use a significance threshold of one-in-one million, as established by APCD Rule 1200, for increased incremental cancer risk for this project. If the revised health risk assessment or the revised significance threshold result in the project potentially requiring mitigation, appropriate measures should be evaluated and proposed.[17]
>
> "Cancer Burden" means the estimated potential increase in the occurrence of cancer cases in a population subject to an incremental cancer risk of greater than one in one million resulting from exposure to toxic air contaminants.[18]

If evidence is submitted tending to show that the environmental impact might be significant despite the significance standard used in the EIR, the agency must address that evidence.[19] Here, the DEIR not only uses the wrong standard of significance but also reveals the impact to

[14] DEIR, p. 3.6-7 to 3.6-9.
[15] DEIR, p. 3.1-16.
[16] *Id.*
[17] SDAPCD Comments, June 28, 2023, p. 4.
[18] Regulation XII, Rule 1200, (c)(2) and (d) available at https://www.sdapcd.org/content/dam/sdapcd/documents/rules/current-rules/Rule-1200.pdf
[19] *Protect the Historic Amador Waterways v Amador Water Agency* (2004) 116 CA4th 1099, 1111.

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the human health will be significant.

The DEIR's attempt to characterize the Project as a mobile source (and therefore undermine the application of the threshold) is disingenuous at best.[20] As noted by APCD, "[s]ince truck trips are directly related to the operation of the terminal, their emissions and associated health impacts should be included in the analysis of operational emissions from the project."[21] Notably, the DEIR applies APCD's stationary source rules elsewhere.[22]

Similarly, the DEIR's reliance on "couplers that connect tanker trucks, spill containment drain valves, overfill prevention devices, and vent pressure/vacuum valves" as toxics best available control technology ("T-BACT") is misplaced.[23] As the DEIR notes, the TAC's associated with the Project are primarily from truck traffic, while the aforementioned technology improvements apply to the fuel transfer process – leaving the TACs largely unaddressed. The definition of T-BACT underscores its inapplicability here:

> "**Toxics Best Available Control Technology (T-BACT)**" means the most effective emission limitation or emission control device or control technique which:
>
> (i) has been achieved in practice for that source or category of source; or
>
> (ii) is any other emissions limitation or control technique, including process and equipment changes of basic and control equipment and implementation of pollution prevention measures, found by the Air Pollution Control Officer to be technologically feasible for that source or category of source, or for a specific source. If there is an applicable MACT standard, the Air Pollution Control Officer shall evaluate it for equivalency with T-BACT.[24]

7-3 cont.

Rule 1200(d)(1) confirms the technology applied must actually address the TACs:

> (1) Cancer Risk
>
> (i) T-BACT Not Applied. The increase in maximum incremental cancer risk at every receptor location is equal to or less than one in one million for any project for which new, relocated, or modified **emission units that increases maximum incremental cancer risk are not equipped with T-BACT**; and

[20] DEIR, p. 3.1-16.
[21] SDAPCD Comments, June 28, 2023, p. 1.
[22] See, e.g. DEIR, p. 3.1-12 ["Specifically Rule 20.2 applies to this Project as it will be likely be considered a Non-Major Stationary Source."]; p. 3.1-9; 3.1-10.
[23] DEIR, p. 3.1-16.
[24] APCD Rule 1200(c)(24), underline added.

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> (ii) T-BACT Applied. Except as provided in (d)(1)(iii), the increase in maximum incremental cancer risk at every receptor location is equal to or less than 10 in one million **for any project for which all new, relocated, or modified emission units that increases maximum incremental cancer risk are equipped with T-BACT**.

Thus, the emission units that increase cancer risk must be equipped with T-BACT in order to meaningfully reduce cancer risk. The DEIR's contrary conclusion that the Project has employed T-BACT in an attempt to justify the lower cancer risk threshold is therefore not supported by substantial evidence or the applicable regulations.

In its earlier comments, APCD noted the irony and hypocrisy of subjecting the citizens of National City to health impacts from diesel engine emissions in order to transport alternatives to dirty diesel:

> Also, the APCD notes that emission impacts from the project include diesel engine emissions for the purpose of importing alternative fuels that are designed to reduce emissions from this very type of equipment. The APCD suggests that this may create unique opportunities for making this fuel available broadly within the nearby area to reduce emissions from the transportation sector as a whole, potentially resulting in net reductions to emissions (and health risk) within the community.[25]

7-3 cont.

A recent study[26] found that PM2.5 exposure is associated with increases in risk for illness-related work absences, and exposure to wildfire smoke amplifies this impact. According to the findings in the study, every one unit increase in PM2.5 exposure could result in more than 1 million days of work loss due to sickness and a quarter-billion dollars of economic loss annually in California.[27] Thus, the Project's particulate matter emissions will result in negative health and economic impacts. **These substantial negative impacts on human beings result in a mandatory finding of significance**.[28]

Further, nothing in the DEIR supports the notion that the project deliveries will be confined to a 35-mile radius. The DEIR fails to identify its retail customers or their locations. Thus, it is likely the Project will result in greater emissions and longer trips than disclosed.

[25] SDAPCD Comments, June 28, 2023, p. 5.
[26] Ying-Ying Meng, Yu Yu, Mohammad Z. Al-Hamdan, Miriam E. Marlier, Joseph L. Wilkins, Diane Garcia-Gonzales, Xiao Chen, Michael Jerrett, *Short-Term total and wildfire fine particulate matter exposure and work loss in California, Environment International*, Volume 178, 2023, 108045, ISSN 0160-4120, available at https://www.sciencedirect.com/science/article/pii/S0160412023003185
[27] https://content.govdelivery.com/accounts/CARB/bulletins/35efe6f
[28] See, Pub. Res. Code §21083(b)(3) [mandatory finding of significance where "[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly."]; CEQA Guidelines §15065(a)(4)).

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b. Inconsistency With the CERP

In response to Assembly Bill (AB) 617 (C. Garcia, 2017), the California Air Resources Board (CARB) established the Community Air Protection Program (Program). The Program's mission is to reduce pollution exposure in communities based on environmental, health and socioeconomic information. San Diego's Portside Environmental Justice Community encompasses parts of Barrio Logan, Logan Heights, Sherman Heights, and National City. In 2018 the Portside Community was selected as a monitoring community and in 2019 was selected to develop a Community Emissions Reduction Plan (CERP).[29] Since 2018, the Air District has been working with the Portside Steering Committee made up of local businesses, community groups, and residents of the community and the City of National City to develop strategies to improve the air quality for all in the community. The CERP was adopted by the San Diego Air Pollution Control District Board in July 2021 and approved by the California Air Resources Board in October 2021.[30] As noted in the DEIR, the CERP is "designed to guide the community and businesses to achieve emissions beyond regulatory standards."[31]

The CERP contains several different goals to reduce air pollution. The Project conflicts with these goals in numerous ways, each resulting in increased impacts to nearby residents in the Portside Environmental Justice Community. 7-4

Goal 1 – "By 2031, reduce Diesel PM from 2018 levels by 80% in ambient air at all Portside Community locations"

Once complete, the Project is expected to receive approximately 144 heavy-duty truck trips per day via W. 18th Street and exiting the facility on W. 19th Street. In comparison, the Port of San Diego's two cargo terminals (Tenth Avenue and National City) attract about 118 trucks per day – or about 237 truck trips (to and from).[32] Thus, the traffic produced by this one fuel transfer facility will potentially produce more than half the heavy-duty truck traffic as San Diego's port cargo terminals, resulting in a commensurate *increase* in diesel particulate matter.

Goal 2 - Medium-Duty and Heavy-Duty trucks servicing Portside Community to be 100% ZEV 5 years ahead of the California state requirements

[29] https://www.sdapcd.org/content/sdapcd/community/community-air-protection-program/portside-community/portside-cerp.html
[30] https://ww2.arb.ca.gov/our-work/programs/community-air-protection-program/communities/portside-environmental-justice
[31] DEIR, p. 3.1-13.
[32] https://pantheonstorage.blob.core.windows.net/environment/2022-POSD-Health-Risk-Assessment-Fact-Sheet-April-2023_English.pdf

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The Port's Maritime Clean Air Strategy has a goal of 100 percent electrification of trucks servicing Port of San Diego cargo terminals by 2030.[33] The State of California's Advanced Clean Fleet Rule sets a timeline for a full ZEV transition of trucks that travel across the state by 2045 (drayage trucks by 2035). This project conflicts with these stated goals because it does not include any required ZEV technology for delivery of fuel to retailers or for construction vehicles.

Further, investing in infrastructure that will transport fossil fuels for a transportation sector that is to be fully electric in 15 years is counterproductive and shortsighted - especially when the purportedly "clean" fuel results in more truck trips powered by "dirty fuel" in the Portside Environmental Justice Community.

Goal 4 - Reduce emissions from HD/MD trucks servicing indirect sources by 100% 5 years in advance of regulatory requirements

7-4 cont.

Indirect sources of air emissions are stationary sources that create air pollution by attracting mobile sources (e.g., warehouses, marine ports, railyards, airports – or in this case a fueling transfer station). San Diego's Portside Community has approximately 524 warehouse and distribution facilities within its borders. Approximately 24 warehouses already exist within 1000 feet of the proposed Project. Thus, the instant Project will only add to this cumulative impact, frustrating the region's ability to meet its CERP goals.

The DEIR's opposite conclusion is a disservice to the community. The emission reductions noted in the DEIR will be realized by other projects and other fleets – not those servicing the Project and not those traveling through the streets of National City, resulting in a significantly higher cancer burden. The DEIR's shameful attempt to equate selling "cleaner" fuels with using them is disingenuous. The Project will result in a substantial health risk and is inconsistent with the CERP – underscoring the Project's substantial adverse effects on human beings.[34]

C. Greenhouse Gas Emissions Will Be Significant

As the MND did, the DEIR trivializes GHG emissions and ignores the City's ability to mitigate emissions from new development projects. As noted by the California Supreme Court, new development projects will likely require greater reductions than existing development:

7-5

> Plaintiffs put forward one ready reason to suspect…that in fact a greater degree of reduction may be needed from new land use projects than from the economy as a whole: **Designing new buildings and infrastructure for maximum energy efficiency and**

[33] https://pantheonstorage.blob.core.windows.net/environment/20211214-Final-MCAS.pdf
[34] Pub. Res. Code §21083(b)(3); CEQA Guidelines §15065(a)(4).

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> **renewable energy use is likely to be easier, and is more likely to occur, than achieving the same savings by retrofitting of older structures and systems.**[35]

In contrast, the DEIR's GHG analysis presumes projects above the SCAQMD screening threshold are not worth the City's time.[36] The DEIR further posits that the small project threshold represents less than one percent of the future 2050 statewide GHG emissions target.[37] This turns the cumulative impacts analysis on its head.[38]

The DEIR notes the lead agency has discretion to establish the appropriate methodology and threshold of significance for each impact area, including GHG emissions. The City – its elected decision-making body – holds such discretion: the Project applicant's consultant does not. EHC urges the City to reject the DEIR's dubious and self-serving analysis and threshold and instead rely on the science-based, widely used CAPCOA threshold described below. **7-5 cont.**

Though most lead agencies rely on the 900 metric tons of carbon dioxide equivalent as a screening threshold, the Project does not because it will result in 1,633 $MTCO_2$ per year when operational. When construction emissions are added to this total, it clearly exceeds the CAPCOA threshold.[39] The DEIR relies instead on the SCAQMD (interim) threshold, which only applies where SCAQMD is the lead agency and where "stationary source equipment associated with these projects are either at BACT or must comply with source-specific rules that reduce criteria pollutants and/or air toxics."[40] Moreover, the SCAQMD screening threshold captures 90 percent of reported annual *natural gas consumption of stationary sources from 2006 to 2007*.[41] This outdated metric does not account for 90 percent of projects (as the DEIR suggests) but 90 percent of projects over which SCAQMD had jurisdiction as the lead agency.[42]

[35] *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 226, emphasis added.
[36] DEIR, p. 3.4-8 to 3.4-9.
[37] Id. at p. 3.4-9.
[38] *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718 ["The relevant question to be addressed in the EIR is not the relative amount of precursors emitted by the project when compared with preexisting emissions, but whether any additional amount of precursor emissions should be considered significant in light of the serious nature of the ozone problems in this air basin"]; see also, *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 117 [126 Cal.Rptr.2d 441], as modified (Nov. 21, 2002) disapproved of by *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086 [rejecting CEQA Guideline that would define a de minimis contribution insignificant where that the "environmental conditions would essentially be the same whether or not the proposed project is implemented."]
[39] https://www.ourair.org/wp-content/uploads/CAPCOA-CEQA-and-Climate-Change.pdf
[40] SCAQMD, Interim GHG CEQA Thresholds, p. 5, available at http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2
[41] Id. at p. 6.
[42] DEIR, p. 3.4-8.

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> Land use projects above the 3,000 metric tons of CO2e per year level would fall within the percentage of largest projects that are worth mitigating without wasting scarce financial, governmental, physical, and social resources.[43]

This is nonsensical – especially where the purpose of CEQA review is to analyze, minimize, mitigate and disclose the Project's impacts. This is especially true when the vast majority of municipalities use the 900 metric ton CAPCOA threshold and the City's land use jurisdiction covers a greater diversity of projects with a different emissions profile than that of SCAQMD.

When the more appropriate CAPCOA threshold is applied, it is clear the Project will have a significant impact. The latest CARB Scoping Plan concludes a more aggressive approach to GHG reductions is necessary.[44] "Despite much progress, California still has some of the worst air pollution in the nation, especially in the San Joaquin Valley and the Los Angeles Basin, which is driven by the continued use of fossil fuel-powered trucks and cars."[45]

The Project's significant use of fossil-fuel powered trucks is even more troubling now as the City has updated in CAP. The City's focus on transportation as the most significant source of community-wide emissions reductions is at odds with the Project's significant increase in transportation-related GHG emissions.[46] Though the Project will haul "cleaner" fuels, it will directly result in the burning of dirty fossil fuels.

7-5 cont.

In that regard, the DEIR selectively analyzes the Project's consistency with a handful of self-selected CAP measures – completely ignoring the VMT reduction measures with which it clearly does not align.[47] This statement in the CAP is especially poignant in light of the DEIR's flagrant disregard of its GHG impacts:

> **Broadly speaking, the use of fossil fuels for energy (including electricity, heating, transportation, and other uses) is the single largest contributor to GHG emissions and climate change**. Fossil fuels still supply a considerable share of energy for electricity, heating, transportation, and other energy-producing uses.[48]

CARB and SDAPCD have encourage the Project to implement ZEV and Tier IV onsite equipment to reduce the Project's cumulative GHG impacts and direct air quality and health

[43] DEIR, p. 3.4-8.
[44] 2022 CARB Scoping Plan, p. 1, available at https://ww2.arb.ca.gov/sites/default/files/2023-04/2022-sp.pdf
[45] Id., p. 11.
[46] National City CAP, Table CAP-5, and p. 25.
[47] CAP Table CAP-9; DEIR, p. 3.4-11.
[48] CAP, p. 29, emphasis added.

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impacts to the community.[49] Despite these agency comments, the DEIR includes none of these, as SDAPCD recently noted in its most recent comment letter.[50] In light of the significant climate crisis, the Project's GHG emissions are significant and must be mitigated. The DEIR should include an accurate assessment of the Project's emissions and implement the proposed mitigation measures (ZEV and Tier IV equipment).

Lastly, the DEIR's GHG analysis relies on suspect modeling assumptions. The model relied on an average one way trip of 12.32 miles, underestimating the distance between the Project and its customers.[51] The DEIR's presumption that Project deliveries would be restricted to a 35-mile radius is itself unsupported – no customer data is presented and no Project conditions restricting the delivery area are proposed. Thus, the average trip length of 12.32 miles is even more specious. As a result, the CalEEMod emissions underestimate the Project's impacts.

7-5 cont.

D. VMT Impacts Will Be Significant and Unmitigated

The Project will also result in significant traffic impacts. First, the Project does not consider the cumulative impact of creating additional capacity – by freeing up capacity at the BNSF facility in San Diego. Further, the DEIR does not explain the substantial Project capacity reduction from the MND to the DEIR. The MND Traffic Study reflected 605 passenger car equivalent daily trips associated with the Project.[52] The DEIR Traffic Study reflects an almost 50 percent reduction in fuel capacity and 385 passenger car equivalent daily trips.[53] This reduction is not explained in the DEIR or appendices and is therefore suspect.

7-6

Further, in lieu of using the OPR Technical Advisory, the DEIR continues to rely on the San Diego ITE Guidelines.[54] The OPR Technical Advisory suggests projects with fewer than 110 trips per day can be assumed to cause a less-than-significant transportation impact.[55] The Project's VMT Analysis instead references the San Diego Region ITE/Stantec Guidelines, which provide no justification for their thresholds except the ITE/Stantec Guidelines from 2000 – which predate SB 743. Indeed, the 2000 ITE/STANTEC Guidelines are primarily focused on circulation and congestion – the opposite of SB 743's focus.[56]

[49] See SDAPCD June 28, 2023 Comment Letter, pp. 4-5; SDAPCD June 6, 2024 Comment Letter, p. 2; CARB June 7, 2024 Comment Letter, p. 4.
[50] SDAPCD January 23, 2025 Comment Letter, p. 2.
[51] Appendix B, p. 37.
[52] MND Traffic Impact Study, p. 1.
[53] DEIR, Appendix H, p. 1.
[54] Id.
[55] OPR SB 743 Technical Advisory, p. 12, available at https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf
[56] Indeed, the City relied on the OPR Technical Advisory to prepare the CEQA document for the recently approved CARMAX project. The City's deviation therefrom here is therefore suspect. See, https://www.nationalcityca.gov/home/showpublisheddocument/27309/637679129231930000

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Further, a determination that an environmental impact complies with a threshold of significance does not relieve a lead agency of its obligation to consider evidence that indicates the impact may be significant despite compliance with the threshold.[57] If evidence is submitted tending to show that the environmental impact might be significant despite the significance standard used in the DEIR, the agency must address it.[58] Because the Project will generate the equivalent of 385 passenger car equivalent trips, well above the OPR Technical Advisory threshold, it will result in a significant transportation impact. **7-6 cont.**

E. The Alternatives Analysis is Inadequate

"The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."[59] The "core of an EIR is the mitigation and alternatives sections."[60] An agency may not approve a project that will have significant environmental impacts if there are feasible alternatives that would substantially lessen those effects.[61]

The purpose of an EIR's discussion of alternatives and mitigation measures is to identify ways to reduce or avoid significant environmental effects.[62] An EIR must focus on alternatives that can avoid or substantially lessen a project's significant environmental effects.[63] The alternatives discussed in an EIR should be ones that offer substantial environmental advantages over the proposed project.[64] Because the DEIR incorrectly concludes none of the Project impacts are significant, the alternatives analysis is fundamentally flawed.[65] In fact, the DEIR includes a detailed analysis of Alternative 3 as a feasible alternative, but the Project use is prohibited in the ML Light Industrial zone in which **7-7**

[57] 14 Cal Code Regs §15064(b)(2).
[58] *Protect the Historic Amador Waterways v Amador Water Agency* (2004) 116 Cal. App. 4th 1099, 1111.
[59] *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, 503 [cleaned up and citations omitted]
[60] *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.
[61] Pub. Resources Code, § 21002; Guidelines, §§ 15002, subd. (a)(3), 15021, subd. (a)(2); *Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, 546.
[62] *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1988) 47 Cal. 3d. 376, 403
[63] Pub. Res. Code §21002; 14 Cal Code Regs §15126.6(a)–(b).
[64] *Citizens of Goleta Valley v Board of Supervisors* (1990) 52 Cal. 3d. 553, 566. *See Cleveland Nat'l Forest Found. v San Diego Ass'n of Gov'ts* (2017) 17 Cal. App. 5th 413, 436 (rejecting transportation plan EIR that did not consider alternatives that would reduce vehicle miles travelled); Practice Under the California Environmental Quality Act (2d ed. Cal. CEB 2024) §15.7
[65] See, DEIR p. 5-7 ("Alternative locations considered were either unavailable for development, would not feasibly accommodate a project such as the Proposed Project, or **would not reduce the significant impacts because none are identified**."), emphasis added.

Letter 7 – Continued

Alternative 3 is located. Thus, the DEIR's rejection of alternative locations outside National City based on purported zoning/use restrictions is incongruous.[66]

In addition, the DEIR's alternative location (Alternative 3) does not reflect inclusion of reasonable range of alternatives.[67] Alternative 3 does not alleviate the health and safety concerns as it is still within National City and, as APCD notes, still within the Portside Community (notwithstanding the DEIR's conclusion to the contrary).[68]

Alternative locations outside of National City are available. Indeed, Plastic Express has a transloading facility in Miramar at 7001 Miramar Road, San Diego, CA 92121.[69] Expansion at this location – far removed from residents and Portside Communities – would have a reduced impact and likely serve as a more central hub to fuel customers. Plastic Express already lists a bult terminal in National City at 840 West 19th Street, National City, CA 91950,[70] adding to the cumulative impacts and health, environmental, and safety burden of the Portside Community. Additional locations along the 78 corridor and BNSF's rail network between Oceanside and Escondido also exist. They could meet most of the Project objectives without additionally burdening National City.

7-7 cont.

[66] See DEIR, p. 5-28 (Alternative 3 analysis incorrectly stating (ML) Light Manufacturing zoning designation would accommodate the Project with a CUP.
[67] 14 Cal Code Regs §15126.6(a).
[68] APCD January 23, 2025 comments, p. 1; DEIR, 5-28.
[69] https://www.plasticexpress.com/operations/bulk-terminals/
[70] *Id.*

Letter 7 – Continued



Figure 1 Excerpt of BNSF Network Map available at https://www.bnsf.com/bnsf-resources/pdf/ship-with-bnsf/maps-and-shipping-locations/bnsf-network-map.pdf

7-8

F. Hazardous Impacts

The DTSC Interim Measure Workplan (IMW) for the cleanup of the property (the remediation area) was approved in May 2022, along with a CEQA exemption. However, the cumulative impact of the cleanup and the instant project has not been studied. Likewise, the remediation effort did not consider the intended use of the property as the Notice of Exemption for the IMW states incorrectly that "the property owner [had] no plans for future redevelopment at the Site."[71] In addition, the neighboring PSI property has not been remediated, contrary to the DEIR's conclusion.[72] The DTSC sent Pacific Steel a demand letter in October 2024 demanding substantial revisions to the Corrective Measures Study for the 1700 Cleveland Ave site – including a requirement that the remediated BNSF parcels remain

7-9

[71] https://files.ceqanet.opr.ca.gov/279106-1/attachment/pQg5f99Hp4r0jwUeM2jL0-wYkGqcFlS-2cUhwFP63nvI9WjLjKIt2JAcLAE-AW4lQInVAlkxnI-0eqYZ0
[72] DEIR, p. 2-3.

Letter 7 – Continued

as part of the facility.[73] Therefore, the concurrent remediation of the PSI property and construction of the Project must be analyzed. **7-9 cont.**

G. Environmental Justice – General Plan Inconsistency

Residents in Southeastern San Diego die ten years younger than their counterparts in Central San Diego.[74] National City residents' life expectancy is only 7 months longer than Southeastern San Diegans.[75] Geography plays a crucial role in this metric:

> While life expectancy is increasing across the board, there is variation in estimates by communities within the San Diego County region. People are less likely to live longer if they are economically disadvantaged, get little exercise and lack access to health care, but according to many studies, even accounting for these factors, geography matters. A baby born in San Diego County in 2021, has a life expectancy of 80.6 years, but within the county, there is currently a 15.6 year gap in life expectancy between some communities.[76]

In light of this disparity, the National City General Plan includes a Health and Environmental Justice component. Therein, the City acknowledges: **7-10**

> On-going and planned uses west of I-5; therefore, pose undesirable impacts on non-industrial and sensitive land uses throughout the planning area. Industrial uses are responsible for the generation of point and non-point source emissions. Distribution activities generate a substantial amount truck traffic that contribute to high levels of diesel emissions and air quality concerns in other areas of the city.[77]

The DEIR's failure to accurately and adequately analyze the Project's impacts precludes an informed analysis of the Project's inconsistency with the General Plan or the Health and Environmental Justice element. Because the Project will significantly increase truck trips, diesel particulate matter emissions, community cancer burden above the SDAPCD threshold, and GHG emissions, it is inconsistent with all of the enumerated policies:

[73] See Enclosure.
[74] https://www.kpbs.org/news/local/2023/06/26/people-in-southeast-san-diego-die-10-years-younger-on-average-than-central-san-diegans
[75] *LIFE EXPECTANCY IN SAN DIEGO COUNTY*, 2010-2021 San Diego County Health and Human Services Agency, p. 13. https://www.sandiegocounty.gov/content/dam/sdc/hhsa/programs/phs/CHS/LifeExpectancyinSanDiegoCounty2010-2021.pdf
[76] Id., p. 1.
[77] National City, General Plan, Part Three: General Plan Elements – Health and Environmental Justice, p. 3-222.

Letter 7 – Continued

Policy HEJ-1.2: Consider environmental justice issues as they are related to potential health impacts associated with land use decisions, including enforcement actions, to reduce the adverse health effects of hazardous materials, industrial activities, and other undesirable land uses, on residents regardless of age, culture, ethnicity, gender, race, socioeconomic status, or geographic location.[78]

Policy HEJ-1.5: Assure potentially affected community residents that they have opportunities to participate in decisions that affect their environment and health, and that the concerns of all participants involved will be considered in the decision-making process.[79]

Policy HEJ-2.1: Avoid land use conflicts by ensuring residential, public assembly, and other sensitive land uses are adequately buffered from industrial land uses that may pose a threat to human health, where feasible.[80]

Policy HEJ-2.6: Consider air quality impacts, including cumulative impacts, from existing and new development when making land use decisions and limit the number of industrial facilities or uses to prevent cumulative air pollution impacts.[81]

Policy HEJ-2.7: Designate truck routes that avoid sensitive land uses, where feasible.[82]

Policy HEJ-2.9: Request lead and responsible agency consultation on land use and transportation planning, design, and implementation projects to insure that feasible measures are included to minimize potential impacts on the city from air pollution.[83]

Related policies with which the Project conflicts include:

LU-3.2: Prevent the intrusion of new incompatible land uses and environmental hazards into existing residential areas and phase out existing non-conforming uses.[84]

LU-3.6: Prohibit the establishment of new residential and other sensitive land uses near industrial land uses and within the Harbor District (unless proposed as part of a mixed-use development adjacent to the 8th Street Trolley stop) and buffer existing residential uses and other sensitive land uses from industrial uses, while protecting and enhancing visitors-serving, commercial, retail, industrial, working-waterfront, and maritime related job-producing industries.[85]

7-10 cont.

[78] Id., p. 3-231.
[79] Id., p. 3-232.
[80] Id., p. 3-234, emphasis added.
[81] Id., p. 3-325.
[82] Id.
[83] Id., emphasis added.
[84] Id., p. 3-232.
[85] Id., emphasis added.

Letter 7 – Continued

LU-3.7: Limit impacts from industrial or mixed-uses by establishing performance standards to regulate noise, glare, vibrations, odor, lighting, air pollution, and other potential disturbances.[86]

S-7.7: Work with property owners and lead agencies to reduce soil contamination from industrial operations and other activities that use, produce, or dispose of hazardous or toxic substances.[87]
S-8.1: Promote the clean-up and reuse of contaminated sites and prioritize remediation and redevelopment of brownfield sites within and adjacent to residential and mixed-use areas.[88]

CS-7.1: Promote the use of green building practices in new and existing development to maximize energy efficiency and conservation.[89]

C-2.6: Enhance the quality of life in the City's neighborhoods and minimize impacts on schools, hospitals, convalescent homes and other sensitive facilities through the implementation of traffic calming measures in these areas to reduce vehicle speeds and discourage cut-through traffic.[90]

7-10 cont.

As a result of the Project's inconsistency with these goals, it will result in significant impacts to nearby residents. Inconsistency with a land use plan or policy intended to mitigate environmental impacts is likely to result in a finding of significant environmental impact.[91] The Project's health impacts (increased cancer risk), air quality impacts (increased particulate emissions), greenhouse gas emissions (above the CAPCOA screening threshold), and truck traffic (above the OPR Technical Advisory VMT threshold) frustrate the City's ability to meet its Health and Environmental Justice goals. As a result of these impacts, the Project will cause substantial adverse effects on the residents of the National City, triggering a mandatory finding of significance.[92]

H. Land Use and Zoning

7-11

According to the DEIR, the Project requires a Conditional Use Permit (CUP).[93] However, it is unclear whether the Project fits within any of the use categories in Table

[86] Id., p. 3-236.
[87] Id., p. 3-233.
[88] Id.
[89] Id., p. 3-237.
[90] Id., p. 3-239.
[91] See *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 934 ["Because the land use policies at issue were adopted at least in part to avoid or mitigate environmental effects, we consider their applicability under the fair argument test with no presumption in favor of the City."].
[92] See, Pub. Res. Code §21083(b)(3) [mandatory finding of significance where "[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly."]; CEQA Guidelines §15065(a)(4)).
[93] DEIR, p. 3.6-1.

Letter 7 – Continued

18.25.020 (Allowable Land Uses Industrial Zones). Indeed, gasoline service stations are not an allowable use in the Heavy Industrial Zone.

Assuming a CUP would be sufficient, the Project would have to meet the conditions of Municipal Code Section 18.12.110. The CUP is a discretionary permit and is subject to site and use specific conditions. In particular, the City must determine (among other things):

> Granting the permit **would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity** and zone in which the property is located

7-11 cont.

Such findings cannot be made here – where the Project would introduce an additional 169 daily truck trips and a significant increase cancer burden to an already overburdened community – above the SDAPCD threshold. As noted above, the DEIR also fails to analyze the Project's consistency with the LCP – a prerequisite to the City's approval of a CDP. Such analysis would disclose the Project's inconsistency with the LCP and the Project's resultant significant impacts to wetlands and biological resources. As a result, the DEIR's land use analysis must be revised.

I. Conclusion

The DEIR fails to adequately analyze significant environmental impacts and improperly defers analysis of impacts and formulation of mitigation measures. EHC urges the City to exercise its discretion to require significant revisions to the Environmental Impact Report so it may serve its informational purpose and ensure the Project adequately avoids, minimizes, and mitigates its numerous significant impacts.

7-12

Thank you in advance for your consideration of our comments.

Sincerely,

COAST LAW GROUP LLP

Livia B. Beaudin
Attorneys for Environmental Health Coalition

Enclosures: DTSC Demand to Pacific Steel, October 15, 2024

7-13

Letter 7 Attachment

Letter 7 Attachment

Department of Toxic Substances Control

Yana Garcia
Secretary for
Environmental Protection

Katherine M. Butler, MPH, Director
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Gavin Newsom
Governor

October 15, 2024

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DEMAND FOR REVISED CORRECTIVE MEASURES STUDY REPORT IN COMPLIANCE WITH DTSC COMMENTS, PACIFIC STEEL, INC., 1700 CLEVELAND AVENUE, NATIONAL CITY (SITE CODE: 600984)

Dear Mr. Waterman:

As detailed below, the Department of Toxic Substances Control (DTSC) has determined that your client, Pacific Steel, Incorporated (PSI), is still out of compliance with the Corrective Action Consent Agreement (Docket HWCA 20020016) that PSI entered into with DTSC, effective August 12, 2004 and the January 5, 2016, Final Judgment and Order on Consent and Stipulation for Entry of Final Judgment and Order (Judgement and Stipulation) filed concurrent with the Judgment in the matter of People v. Pacific Steel, Inc. (Case No. 37-2015-00042417-CU-TT-CTL), regarding the site located at 1700 Cleveland Avenue, National City, California 91950(Site).

Accordingly, DTSC demands that PSI submit a Corrective Measures Study (CMS) Report with the correct Site boundary as detailed below by November 14, 2024.

7-13 cont.

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Letter 7 Attachment - Continued

BACKGROUND

The CACA and the Stipulation and Judgement obligate PSI to perform certain actions, including submitting a timely correct CMS. Specifically

Paragraph 1.3 of the CACA states:

> Respondent is the owner and leaseholder of property located at 1700 Cleveland Avenue, National City California, 91950-4215 (hereinafter facility).

Section 12.1 of the CACA states:

> Respondent shall revise any workplan, report, specification, or schedule in accordance with DTSC's written comments. Respondent shall submit to DTSC any revised documents by the due date specified by DTSC. Reasonable extensions to the due date shall be granted by DTSC upon request by respondent. Revised submittals are subject to DTSC's approval or disapproval.

Section 1 of the Judgement and Stipulation states: **7-13 cont.**

> THE SITE. Defendant Pacific Steel is an active California Corporation engaged in the business of recycling scrap metal at a facility it owns and operates at 1700 Cleveland Avenue, National City, California 91950-4215. The Pacific Steel Site (Site) is comprised of three areas of real property; the "North Parcel" (Assessors Parcel Numbers 559-051-09, -11, and -12; 559-056-03; and 559- 071-04 [northern one-third of parcel]); the "South Parcel" (Assessors Parcel Number 559-071-04 [southern two-thirds of parcel]; 559-076-01, -02, -09, and -10); and the "BNSF Parcel" (Assessor Parcel Numbers 559-040-46 and-47). Pacific Steel is the owner of the North Parcel and South Parcel; Pacific Steel leases the BNSF Parcel from Burlington Northern and Santa Fe Railway Company.

Section 9 of the Judgement and Stipulation states:

> Section 9c. Continuing Compliance with the 2004 Final Judgment, 2004 Consent Agreement, Interim Measures Plan, and other Workplans. Pacific Steel must continue to comply in all regards with the 2004 Final Judgment, including the 2004 Consent Agreement, the Interim Measures Plan, and other workplans submitted and

Letter 7 Attachment - Continued

approved pursuant to any of them. Nothing in this Stipulation is intended to nor shall it be construed to eliminate, reduce, or otherwise lessen Pacific Steel's obligations under the 2004 Final Judgment, including the 2004 Consent Agreement, the Interim Measures Plan, or other workplans submitted and approved pursuant to any of them.

The two parcels on the western portion of the Site that are owned by BNSF Railway (BNSF Parcels) and were leased to PSI for metal recycling facility usage until approximately February 2023. On May 31, 2022, DTSC approved the Interim Measures Workplan (IMW) to address the remaining soil impacts on the BNSF Parcels.

On December 6, 2022, DTSC issued to PSI a Notice of Noncompliance with the 2004 CACA and the 2016 Consent Judgement due to PSI's lack of IMW implementation and submittal of the CMS. On February 3, 2023, PSI submitted the required CMS workplan and provided a timeline for IMW implementation that contained no planned start date for the IMW work.

To facilitate the redevelopment of its property, BNSF requested a Standard Voluntary Agreement (SVA) with DTSC for the BNSF Parcels of the Site. On April 11, 2023, DTSC entered into an SVA with BNSF. BNSF conducted removal actions in August 2023 in accordance with the IMW, which resulted in the BNSF Parcels being able to meet the criteria for commercial/industrial uses as specified in the IMW, so long as institutional controls, such as Land Use Covenant, were relied upon to restrict the land from residential uses. **7-13 cont.**

The BNSF Parcels of the Site still remain as part of the facility as defined in the CACA, Judgement and Stipulation, and as stated in the DTSC-approved CMS Workplan (SCS Engineering, July 31, 2023). BNSF's work on the Site in accordance with the IMW does not relieve PSI of its liability to the Site, nor does it change the Site boundaries.

Upon DTSC's request, PSI prepared the CMS Report. Below is the timeline of CMS Report review and revision:

1. On January 30, 2024, DTSC received the draft CMS Report;
2. On April 4, 2024, DTSC provided comment letter, stating the discrepancy of Site boundary with what is defined in the CACA and CMS Workplan;

Letter 7 Attachment - Continued

3. On May 7, 2024, DTSC received the revised CMS Report, refusing to revise the Site boundary to be consistent with CACA and CMS Workplan;
4. On June 4, 2024, DTSC provided another comment letter (enclosed here for reference). The letter includes further comment regarding Site boundary discrepancy, and suggested revision to the Figures to include the BNSF parcels as part of the Site by shading these parcels differently and including a note in the legend field to indicate that they are addressed under a separate SVA between BNSF and DTSC. The letter also stated that DTSC still holds PSI as a potentially responsible party for the entire site, including the BNSF parcels.
5. On July 8, 2024, DTSC received the second revised CMS Report. The suggested note to the figure legend located in the DTSC June 4, 2024 letter was added, but the figures still exclude the BNSF parcels as part of the Site.

DEMAND

The CACA, entered into pursuant to Health and Safety Code Section 25187, requires that a CMS Report be prepared in accordance with the CMS Workplan for DTSC review and approval. Section 12.1 of the CACA requires PSI to revise any workplan or report in accordance with DTSC's comments.

7-13 cont.

After two rounds of review and comments, PSI has failed to provide the CMS Report in accordance with the CACA and DTSC comments.

DTSC hereby demands that PSI provide a Corrective Measures Study (CMS) Report with the correct Site boundary as detailed in previous DTSC comments by November 14, 2024.

Failure to comply with this directive is a violation of the California Hazardous Waste Control Law (HSC section 25100 et seq.) and may subject PSI to penalties of up to $70,000 per violation per day. In addition, a false statement that compliance has been achieved is a violation of the law and subject to a penalty of up to $70,000 for each occurrence.

If PSI fails to timely submit the required CMS report that meets DTSC requirements, DTSC will deny approval of the CMS report and utilize any available avenues for enforcement it deems necessary.

Letter 7 Attachment - Continued

Mr. Ryan Waterman, Esq.
October 15, 2024
Page 5

If you have further questions, please contact me, at Katie.Lindsay@dtsc.ca.gov.

Sincerely,

Katie Lindsay

Katie Lindsay
Attorney
Office of Legal Counsel

cc: (via e-mail)

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Response to Environmental Health Coalition – Letter 7:

Response to Comment 7-1:

Comment 7-1 notes that Coast Law Group LLP submitted this letter on behalf of the Environmental Health Coalition (EHC) and summarizes that the letter will detail how the Draft EIR fails to adequately characterize and mitigate significant impacts to water quality, air quality, human beings, hazardous impacts, GHG emissions, and transportation. No response is needed as the following responses will address EHC's specific concerns with Draft EIR.

Response to Comment 7-2:

Comment 7-2 states the Draft EIR fails to adequately analyze the 0.144-acres of the Project Area that contains Coastal Act wetland features. The commenter states the Proposed Project does not align with Coastal Act Section 30233(a)(1).

The commenter states that the Draft EIR fails to analyze the Project's consistency with the Local Coastal Program (LCP), it only analyzed consistency with the Coastal Act.

The commenter is referred to Response to Comment 5-3.

Response to Comment 7-3:

The commenter asserts that the Project would result in significant air quality impacts and states the Draft EIR did not adequately analyze air quality impacts and underestimates the Project's cancer risks. The commenter raises concerns about the use of the cancer risk threshold in the Draft EIR. The Draft EIR applies a threshold of significance for maximum incremental cancer risk of 10 in one million, consistent with T-BACT (Toxics Best Available Control Technology) being applied to stationary sources, per SDAPCD Rule 1200. The 10 in a million threshold has been identified as a significance level for "CEQA" purposes that includes Project mobile sources, in addition to Project stationary sources. This threshold is standard practice for projects of this nature per SDAPCD's guidance and recommendations. The Project, as analyzed in the Draft EIR, includes measures to minimize emissions and applies T-BACT for relevant stationary sources, such as spill containment valves and couplers in fuel transfer processes. It is important to clarify that truck emissions associated with the Project are categorized as mobile sources and are regulated separately under state and federal standards. Mobile source emissions were thoroughly analyzed using AERMOD and HARP2 models, indicating that the maximum cancer risk remains below the applicable threshold of 10 in one million at all receptor locations. In addition, it is noted that diesel-fueled truck mobile sources will be phased out in California by existing regulations as zero-emission truck technologies continue to mature. To better address regional air pollution and global climate change, Governor Gavin Newsom signed Executive Order N-79-20 on September 23, 2020. The Executive Order states: "It shall be a goal of the state that 100% of in-state sales of new passenger cars and trucks will be zero-emission by 2035. It shall be a further goal of the state that 100% of medium and heavy-duty vehicles in the state be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. It shall be further a goal of the state to transition to 100% zero-emission off-road vehicles and

equipment by 2035 where feasible." The Executive Order further directs the development of regulations to help meet these goals. According to CARB, it has implemented or is developing regulations that will eventually require the use of zero-emission trucks throughout the state. CARB also requires increasing the use of zero-emission trucks, through the Advanced Clean Trucks Regulation, which aims to accelerate the adoption of zero-emission trucks. The Advanced Clean Trucks Regulation, approved by CARB on June 25, 2020, required manufacturers to start manufacturing zero-emission trucks and vans beginning in 2024. The rule is expected to result in about 100,000 zero-emission trucks in California by the end of 2030 and about 300,000 by 2035. The Advanced Clean Trucks regulation is part of CARB's overall approach to accelerate use of zero-emission medium- and heavy-duty trucks. CARB approved amendments to the Advanced Clean Trucks regulation in March 2021. The amendments help ensure that more zero-emission vehicles are brought to market.

While the Project supports California's long-term air quality improvement goals and GHG reduction goals, the adoption of zero-emission locomotive technologies, particularly for line-haul operations, is currently not technically feasible at the scale required to meet the Project's operational needs. According to CARB's own findings, zero-emission line-haul locomotives are not expected to be commercially available until at least 2035. Furthermore, the necessary infrastructure along rail routes, such as charging or hydrogen fueling stations, is still under development and not yet capable of supporting large-scale implementation.

It is important to highlight that the Project's primary purpose is to facilitate the distribution of renewable fuels, including renewable diesel, ethanol, biodiesel, and sustainable aviation fuel. These fuels provide immediate, lower-carbon alternatives to conventional fossil fuels, significantly reducing lifecycle GHG emissions and toxic air pollutants. By enabling the use of renewable fuels, the Project serves as a critical transitional measure while zero-emission locomotive and truck technologies continue to advance.

The environmental analysis for the Project has already accounted for emissions from locomotives and demonstrates that these emissions are below applicable thresholds of significance for both air quality and health risk impacts. The Project does not preclude the use of zero-emission switcher and line-haul locomotives as they become more commercially viable. The Project aligns with California's long-term environmental goals by supporting the transition to cleaner transportation technologies and will remain adaptable to advancements in zero-emission solutions as they become more feasible.

The comment also summarizes a recent study on short-term total and wildfire fine particulate matter exposure which found that $PM_{2.5}$ exposure is associated with increases in risk for illness-related work absences which is amplified by wildfire smoke. This study found one unit increase in $PM_{2.5}$ could result in more than 1 million days of work loss due to sickness and a quarter billion dollars of economic loss annually in the State.

Criteria air pollutants are defined as those pollutants for which the federal and State governments have established air quality standards for outdoor or ambient concentrations to protect public health with a determined margin of safety. This includes both coarse and fine particulate matter (PM_{10} and $PM_{2.5}$, respectively). The emissions thresholds were established based on the attainment status of the air basin with regard to air quality standards for specific criteria pollutants. Because the concentration standards

were set at a level that protects public health with an adequate margin of safety (EPA), these emissions thresholds are regarded as conservative and would overstate an individual project's contribution to health risks. All Project-related emission sources were included in the analysis and determined to be below applicable thresholds of significance and less than significant.

The commenter further states the Draft EIR does not give supporting information, such as identifying retail customers or locations, that proves project deliveries will be confined to a 35-mile radius.

Please refer to Response to Comment 4-3. The 35-mile radius from the Project Area generally covers the coastal plain within San Diego County and is defined based on geography and the location of population demand centers. Areas beyond the 35-mile radius begin to encroach into federal lands (e.g., Marine Corps Base Camp Pendleton to the north and the Cleveland National Forest to the east) and retail locations become very sparse beyond this distance.

Response to Comment 7-4:

The commentor raises concerns regarding the Project's consistency with the goals outlined in the Community Emissions Reduction Plan (CERP) for the Portside Environmental Justice Community. The CERP establishes ambitious targets to reduce DPM and other emissions from mobile and stationary sources. The Project, while addressing immediate needs for renewable fuels distribution, aligns with long-term air quality goals in several critical ways. Below are responses pertaining to each goal addressed by the comment.

Goal 1 – "By 2031, reduce Diesel PM from 2018 levels by 80% in ambient air at all Portside Community locations": The Project will enable the distribution of renewable fuels such as renewable diesel, biodiesel, and sustainable aviation fuel, which produce significantly fewer emissions over their lifecycle compared to conventional petroleum-based fuels. These renewable fuels are designed to replace traditional diesel in the transportation sector, directly contributing to a reduction in DPM emissions regionally, including within the Portside Community.

While the Project introduces heavy-duty truck (HDT) trips to the Project Area, these trips would replace existing trips originating from areas farther away and are necessary to supply cleaner fuels to nearby retailers, displacing dirtier fuels currently in use and resulting in a net reduction of transportation sector emissions over time. Additionally, the Project will comply with California's state mandates, such as the Advanced Clean Fleets Regulation and the Heavy-Duty Low-NOx Omnibus Rule, which are designed to accelerate the adoption of cleaner HDT technologies. These mandates, implemented by CARB, include significant reductions in DPM and NOx emissions through the use of Tier 4 engines and the gradual adoption of zero-emission HDTs over time.

As cleaner truck technologies become increasingly available, the trucks serving the Project will be required to meet California's stringent emissions standards, ensuring that diesel PM emissions from HDTs continue to decline. This compliance will further align the Project with California's air quality goals and the Portside Community's CERP goal of reducing Diesel PM by 80 percent by 2031.

Goal 2 – Medium-Duty and Heavy-Duty trucks servicing Portside Community to be 100% zero-emission vehicles (ZEV) 5 years ahead of the California state requirements: The commenter highlights that the Project does not mandate the use of ZEVs. However, it is important to note that zero-emission heavy-duty truck technologies are still in the early stages of adoption, with infrastructure and fleet availability not yet sufficient for large-scale implementation. The Project does not preclude the future transition to ZEVs; instead, it is designed to remain adaptable as ZEV technologies become commercially viable. The renewable fuels facilitated by the Project act as an interim solution, providing immediate emission reductions while the industry transitions to zero-emission alternatives.

Goal 4 – Reduce emissions from HD/MD trucks servicing indirect sources by 100% 5 years in advance of regulatory requirements: The commenter expresses concerns about the cumulative impacts of the Project alongside other indirect sources within the Portside Community. The Project was evaluated under CEQA with a Health Risk Assessment that incorporates emissions from both stationary and mobile sources, demonstrating that cancer risks and other health impacts are below applicable thresholds of significance (see Response to Comment 7-3). Additionally, the Project's focus on renewable fuels directly supports the broader objective of reducing emissions associated with indirect sources like warehouses and distribution facilities.

Response to Comment 7-5:

The commenter raises concerns regarding the Draft EIR's analysis of GHG emissions, including the applied thresholds, mitigation, modeling assumptions, and vehicle miles traveled (VMT). The Project proposes the distribution of renewable fuels—such as renewable diesel, biodiesel, and sustainable aviation fuel—to retailers in a region that currently lacks direct access to these alternatives. By making these fuels available locally by rail, the Project reduces the need for long-distance transport, helping to lower VMT and the associated emissions within the region. Additionally, the renewable fuels supported by the Project align with California's Low Carbon Fuel Standard and broader climate action goals by significantly reducing lifecycle GHG emissions compared to traditional fossil fuels. Additionally, California's Advanced Clean Fleets Regulation and Heavy-Duty Low-NOx Omnibus Rule are driving rapid improvements in heavy-duty vehicle emissions performance. The Project will comply with these state-mandated requirements, incorporating Tier IV and zero-emission vehicle (ZEV) technologies into its operations as they become more available and feasible. The Project does not impede the transition to ZEVs and will remain adaptable to evolving regulatory and technological advancements. The commenter is referred to Response to Comment 4-2 and 7-3 for more detail on Project features that reduce emissions.

The Draft EIR appropriately applies the South Coast Air Quality Management District's (SCAQMD) interim GHG significance threshold of 3,000 metric tons of CO_2e per year, a widely recognized threshold for evaluating land use projects. As stated on page 3.4-8 of the Draft EIR, neither the SDAPCD nor the City of National City identifies a numeric GHG significance threshold. In the absence of such a threshold the analysis employs the SCAQMD significance threshold due to the proximities of the South Coast Air Basin and the San Diego Air Basin. While the commenter suggests using the California Air Pollution Control Officers Association (CAPCOA) 900 $MTCO_2e$ threshold, CEQA allows lead agencies the discretion to select

thresholds that are appropriate for the region and project type. The SCAQMD threshold reflects California's regulatory framework and is consistent with thresholds applied to similar projects in the region. The Draft EIR's analysis demonstrates that the Project aligns with state and regional climate goals. Additionally, the Draft EIR demonstrates Project consistency with the National City Climate Action Plan. As stated on page 3.4-11, the Climate Action Plan has several required policies and actions that apply to the Project. The Project would incorporate all the applicable actions as required by mitigation measure GHG-1 (see page 3.4-12 of the Draft EIR). The VMT reduction measures in the Climate Action Plan referenced by the commenter are not applicable to the Project or any proposed development. A review of Table CAP-9 of the Climate Action Plan shows that the VMT reduction strategies (TLU-1.1 – TLU-1.12) are implemented by the Community Development Department on a citywide basis, and do not address specific requirements of private development projects.

In response to comments about the Draft EIR's assumption of an average one-way trip distance of 12.32 miles, the Project's CalEEMod modeling has been updated (see Response to Comment 4-3) to reflect a more conservative assumption of 35 miles as stated in the Project's Traffic Report. This adjustment accounts for the potential for longer delivery routes and ensures a robust and conservative analysis. Even with this updated trip length, the Project's operational GHG emissions remain below the significance threshold.

Response to Comment 7-6:

Comment 7-6 states the Project does not consider the cumulative impact of creating additional capacity by freeing up capacity at the BNSF facility in San Diego. The commenter also states the Draft EIR did not explain the capacity reduction from the IS/MND to the Draft EIR.

The commenter does not agree with the Draft EIR's use of San Diego ITE Guidelines rather than the OPR Technical Advisory.

The commenter also states that per 14 CCR 15064(b)(2), a determination that an environmental impact complies with a threshold of significance does not relieve a lead agency of its obligation to consider evidence that the impact may be significant despite compliance with the threshold.

Through Project planning, BNSF identified that one new locomotive trip was required to serve the Project Site that would go directly to National City and the Project Site, bypassing classification yards and will not be reclassified or re-blocked (i.e., split up and organized to be sent to multiple destinations) at the BNSF San Diego Rail Yard located north of the Project Site. Therefore, there would be no change in activity at the BNSF San Diego Rail Yard. The OPR Technical Advisory is a guidance document to offer recommendations for which agencies may use at their discretion. The screening threshold of 110 trips to conclude the presumption of a less than significant VMT impact is a recommended value to assess typical small projects based on a typical trip generation rate of 110 to 124 trips per 10,000 square feet and intended for consistency with a CEQA Class 1 exemption (existing facilities). The OPR Technical Advisory does not include recommendations for industrial type developments. At the City's discretion, reliance on the Guidelines for Transportation Impact Studies in the San Diego Region (May 2019) screening threshold

were utilized to determine impact significance. As noted in the Guidelines for Transportation Impact Studies in the San Diego Region (May 2019), it is recommended that lead agencies determine a minimum project size, below which VMT impacts are presumed to be less than significant. This determination of minimum project size for VMT analysis differs from the OPR guidance as it is based on regional standards for transportation analyses documented in the Guidelines for Transportation Impact Studies in the San Diego Region (ITE/SANTEC, 2000) as noted in the comment. This methodology is widely accepted by transportation professionals, decisions makers, and the public. Per the guidelines, Projects that are consistent with the General Plan and with average daily trips between 0 and 1,000 are not required to perform a full VMT analysis and VMT impacts can be presumed to be less than significant.

Response to Comment 7-7:

Comment 7-7 states the alternatives analysis provided in the Draft EIR is inadequate as the Draft EIR incorrectly concludes none of the Project impacts are significant. This comment states the analysis of Alternative 3 is flawed as the proposed use is prohibited in the Light Industrial (ML) zone in which it is located. The commenter also states the Alternative 3 location does not reflect an inclusion of a reasonable range of alternatives as it is still within the Portside Community.

Please refer to Responses to Comments 1-1 and 6-2. As part of the process of application (for Alternative 3), the Project Applicant would include a request for a General Plan Amendment and Zone Change as development of the site would require consistency with both the General Plan and Zoning Code. This change would be necessary to achieve the goal of General Plan/Zoning consistency. It is expected that the General Plan Amendment request would be to change the existing land use designation from Light Industrial to Industrial and the Zone Change would be to change the zoning from Light Industrial to Medium Industrial. With the proposed General Plan Amendment and Zone Change, the Project would be consistent with the underlying General Plan land use designation and zoning code and the Project could be developed with a CUP. No changes to the Draft EIR are required in response to this comment.

Response to Comment 7-8:

Comment 7-8 provides a map of the BNSF network in San Diego County. No response is required.

Response to Comment 7-9:

Comment 7-9 states the cumulative impact of the cleanup of the remediation area outlined in the DTSC Interim Measure Workplan (IMW) has not been studied. The commenter states the remediation effort did not consider the intended use of the property as the IMW Notice of Exemption incorrectly states the property owner had no plans for future redevelopment of the site. This comment also references a demand letter sent to Pacific Steel by DTSC which demands revisions to the Corrective Measures Study for the 1700 Cleveland Avenue site including a requirement that the remediated BNSF parcel remain as a part of the facility. The commenter states the concurrent remediation of the PSI property and Project construction must be analyzed.

Site remediation of the PSI property is a separate project with DTSC as the CEQA lead agency. Site remediation and the associated activities of that project are complete. Each project has independent utility. If the site remediation activity was not implemented, the Proposed Project would still be able to be developed at a reduced intensity. BNSF is the underlying property owner and is not the Project Applicant.

Response to Comment 7-10:

Comment 7-10 states the Draft EIR fails to adequately analyze the Project's consistency with the City's General Plan or the Health and Environmental Justice Element. The commenter also provides information on life expectancy in National City. This comment states the Project is inconsistent with Policies HEJ-1.2, HEJ-1.5, HEJ-2.1, HEJ-2.6, HEJ-2.7, HEJ-2.9, LU-3.2, LU3-.6, LU-3.7, S-7.7, S-8.1, CS-7.1, and C-2.6 as described below.

Health and Environmental Justice Element

Table 3.6-2 in Section 3.6 Land Use of the Draft EIR, titled *Summary of Project Consistency with Environmental Policies of the General Plan and Other Applicable,* provides a discussion of the Project's applicability and consistency. As shown in the table, the Project is consistent with the applicable policies in the City's Health and Environmental Justice Element. No changes to the Draft EIR are required in response to this comment.

Land Use Element

The consistency analysis provided in the Draft EIR includes analysis of applicable land use policies based upon the updated 2024 General Plan Land Use Element which was adopted by the City Council in March 2024. The analysis of compatible land uses is provided in Table 3.6-2 under Policy LU-6.2. No changes to the Draft EIR are required in response to this comment.

Safety Element

The consistency analysis provided in the Draft EIR includes analysis of applicable safety policies based upon the updated 2024 General Plan Land Use Element which was adopted by the City Council in March 2024. The analysis of consistency with soil contamination and contaminated sites is provided in Table 3.6-2 under Policy S-7.7, S-8.1, and S-8.2. No changes to the Draft EIR are required in response to this comment.

Conservation and Sustainability Element

The Project proposes a new prefabricated unit that would be installed within the Project Site. Therefore, Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the CCR (Title 24) will be adhered to. Chapter 3.3 Energy of the Draft EIR accounts for electricity consumption of the office during the operational phase of the Project. No changes to the Draft EIR are required in response to this comment.

Circulation Element

The consistency analysis provided in the Draft EIR includes analysis of applicable transportation policies based upon the updated 2024 General Plan Transportation Element which was adopted by the City Council in February 2024. Policy C-2.6 no longer exists in the City's adopted 2024 General Plan; however Table 3.6-2 demonstrates that the Proposed Project is consistent with all applicable policies identified in the Transportation Element.

Response to Comment 7-11:

Comment 7-11 states it is unclear whether the Proposed Project fits within any of the allowable land uses for industrial zones as listed in Table 18.25.020 of the City's municipal code. The commenter states the Project does not meet requirements for a Conditional Use Permit (CUP) due to inconsistency with the LCP and impacts to wetlands and biological resources.

Please see Response to Comment 5-3. As described in Section 3.2 of the Draft EIR, there are no significant impacts to biological resources as a result of Project implementation. All potentially significant impacts include mitigation measures to reduce the impact to less than significant. No changes to the Draft EIR are required in response to this comment.

Response to Comment 7-12:

Comment 7-12 urges the City to require significant revisions to the EIR to ensure it adequately avoids, minimizes, and mitigates its significant impacts.

The City has fulfilled its obligation for environmental review under CEQA through preparation of the Draft EIR, including requirements for scoping and public review. As demonstrated through the analysis provided within the Draft EIR, impacts were found to be less than significant or less than significant with mitigation. No further response is required.

Response to Comment 7-13:

This comment notes the DTSC demand letter to Pacific Steel Inc. (PSI) mentioned in Comment 7-9 is attached to the comment letter. The letter states that DTSC determined PSI is still out of compliance with the Corrective Action Consent Agreement (CACA), Final Judgment, and Order on Consent and Stipulation for Entry of Final Judgment and Order. DTSC demands that PSI submit a Corrective Measures Study (CMS) Report with correct site boundaries.

As discussed in the letter, the Pacific Steel Site (Site) is comprised of three areas of property, including the North Parcel, South Parcel, and BNSF Parcel of which Pacific Steel owns the North Parcel and South Parcel but leases the BNSF Parcel from BNSF. The BNSF Parcel was leased to PSI for metal recycling facilities until approximately February 2023. BNSF entered into a Standard Voluntary Agreement (SVA) with DTSC on April 11, 2023, to remediate and facilitate redevelopment of its property. BNSF conducted removal actions in August 2023 in accordance with the Interim Measures Workplan (IMW), which resulted in the BNSF Parcels being able to meet the criteria for commercial/industrial uses as specified in the IMW, so long as

institutional controls, such as Land Use Covenant, were relied upon to restrict the land from residential uses.

The letter states that although removal actions were completed, the BNSF parcels remain as part of the PSI Site as defined in the CACA, Judgement and Stipulation, and DTSC-approved CMS Workplan and the work on the site does not relieve PSI of its liability for the Site. A revised CMS Report was requested to show the BNSF Parcels as part of the Site on the figures and figure legend. The revised report submitted to DTSC added the BNSF parcels to the figure legend but not the figures, leading DTSC to provide this demand letter.

DTSC 's request is to update site boundaries in figures provided in the Corrective Measures Study (CMS) report and to specify that BNSF's remediation efforts do not relieve PSI of its liability to the Site or change the Site boundaries. This is an administrative request to update an existing report and provides no challenge to the Draft EIR or the information contained therein. No further response is necessary.

4.0 ERRATA

4.1 Introduction

No changes to the Draft EIR are required in response to public comments received during the public review period.

5.0 MITIGATION MONITORING AND REPORTING PLAN

5.1 Introduction

In accordance with CEQA, an EIR that identified adverse impacts related to the construction activity for the Proposed Project was prepared. The EIR identified mitigation measures that would reduce or eliminate these impacts to below the level of significance.

Section 21081.6 of the Public Resources Code and Sections 15091(d) and 15097 of the State CEQA Guidelines require public agencies to adopt a reporting and monitoring plan for changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. A Mitigation Monitoring and Reporting Plan (MMRP) is required for the Proposed Project because the EIR identified potentially significant adverse impacts related to construction and operation activities, and mitigation measures have been identified to mitigate these impacts. Adoption of the MMRP will occur along with approval of the Proposed Project.

5.2 Purpose of the Mitigation Monitoring and Reporting Plan

This MMRP has been prepared to ensure that all required mitigation measures are implemented and completed according to schedule and maintained in a satisfactory manner during the construction and operation of the Proposed Project, as required. The MMRP may be modified during project implementation, as necessary, in response to changing conditions or other project refinements. Table 5-1 has been prepared to assist the responsible parties in implementing the MMRP. This table identifies the category of significant environmental impact(s), individual mitigation measures, monitoring and mitigation timing, responsible person/agency for implementing the measure, monitoring and reporting procedure, and notation space to confirm implementation of the mitigation measures. The numbering of the mitigation measures follows the numbering sequence in the EIR.

5.3 Roles and Responsibilities

The City of National City, as Lead Agency, is responsible for oversight of compliance of the mitigation measures in the MMRP.

5.4 Mitigation Monitoring and Reporting Plan

The column categories identified in the MMRP table (Table 5-1) are described below.

- **Mitigation Measure** – This column lists the mitigation measures by number.
- **Monitoring Activity/Timing/Frequency/Schedule** – This column lists the activity to be monitored for each mitigation measure, the timing of each activity, and the frequency/schedule of monitoring for each activity.

- **Implementation Responsibility/Verification** – This column identifies the entity responsible for complying with the requirements of the mitigation measure and provides space for verification initials and date.
- **Responsibility for Oversight of Compliance/Verification** – This column provides the agency responsible for oversight of the mitigation implementation and is to be dated and initialed by the agency representative based on the documentation provided by the construction contractor or through personal verification by agency staff.
- **Outside Agency Coordination** – This column lists any agencies with which the City may coordinate for implementation of the mitigation measure.
- **Comments** – This column provides space for written comments, if necessary.

Table 5-1. Mitigation Monitoring and Reporting Plan.

Mitigation Measure	Activity/Timing/ Frequency	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
Biological Resources Mitigation Measures					
BIO-1: Rare Plant Salvage. Prior to the start of construction activities, a qualified biologist shall salvage seed from the Nuttall's acmispon during the appropriate time of year (June to October), store under appropriate conditions, and coordinate donation of the seeds with a refuge and/or plant nursery (e.g., Sweetwater Marsh National Wildlife Refuge and Native West Nursery) that would apply seed within the refuge boundaries. Appropriate seed storage conditions are in a paper bag, placed in a dry location out of direct sunlight, away from moisture, ideally at 72 degrees Fahrenheit. Seed shall be collected from June to October 2024 and the subsequent spring (2025), provided that the plant is present and ready to seed.	**Activity:** Seed salvage **Timing:** Prior to the start of construction activities. **Frequency:** 2 collection seasons.	**Project Biologist** Initials Date	**City of National City** Initials Date	Possible coordination with USFWS.	Seeds collected in July 2022 and donated in October 2022.
BIO-2: Pre-Construction Survey for Nesting Birds and Special-Status Avian Species. Where feasible, ground-disturbing activities, including vegetation removal, shall be conducted during the non-breeding season (approximately September 1 through January 14) to avoid violations of the MBTA and California Fish and Game Code Sections 3503, 3503.5 and 3513. Several species were identified as having potential to nest year-round; therefore, regardless of time of year, a pre-construction survey for nesting birds and special-status avian species shall be conducted by a qualified biologist (experienced in the identification of avian species and conducting nesting bird	**Activity:** Pre-construction survey for nesting birds and special-status avian species. **Timing:** Conduct survey no more than three days prior to initial ground disturbance if	**Project Biologist** Initials Date	**City of National City** Initials Date	Possible coordination with CDFW.	

Table 5-1. Mitigation Monitoring and Reporting Plan.

Mitigation Measure	Activity/Timing/ Frequency	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
surveys) if activities with the potential to disrupt nesting birds or special-status avian species are scheduled to occur. The survey shall include the Proposed Project and adjacent areas where Project activities have the potential to cause nest failure. The pre-construction survey shall be conducted no more than 3 days prior to the start of ground-disturbing activities (including vegetation removal) within the bird breeding season. Site preparation and construction activities may begin if no nesting birds or special-status avian species are observed during the survey. If nesting birds or raptors or special-status avian species are found to be present, avoidance or minimization measures shall be implemented to avoid potential proposed Project-related impacts to the species. Avoidance and minimization measures shall be developed by the qualified biologist and may include seasonal work restrictions, additional survey and monitoring requirements, or non-disturbance buffers established around active nests until the biologist has determined that the nesting cycle is completed. The width of non-disturbance buffers established around active nests will be determined by the qualified biologist (300 feet is typically recommended for songbirds and 500 feet is typically recommended for raptors). Once nesting is deemed complete by the qualified biologist as determined through periodic nest monitoring, the non-disturbance buffer will be removed by the qualified biologist and proposed Project work may resume in the area.	construction is to occur during breeding season. **Frequency:** One time.				

Table 5-1. Mitigation Monitoring and Reporting Plan.

Mitigation Measure	Activity/Timing/ Frequency	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
BIO-3: Compliance with Section 4150 of California Fish and Game Code: If tree trimming and removal activities are required, these activities should take place outside of the bat maternity season (April 1 to August 31) to the greatest extent feasible. If tree removal must take place during the maternity season, a pre-removal bat survey shall take place no more than 48 hours prior to planned tree removal to determine if bats are roosting in the trees. If bats are determined to be present in the trees during surveys, tree removal shall be postponed until after the maternity season (September 1 through March 31). All tree-trimming and removal activities shall be conducted under the direct supervision of a qualified bat biologist. To minimize direct mortality to any roosting bats, including western yellow bat, each palm tree requiring removal shall be trimmed using a two-step process conducted over two consecutive days. On the first day only the outermost fronds of each individual tree shall be removed, including the uppermost live fronds (the top of the tree) entirely on the first day along with the upper 25 percent of the frond skirt. The innermost fronds shall not be trimmed. No more than 50 percent of the palm fronds shall be removed from each tree during Day 1. This method would allow for sufficient disturbance of the tree that would encourage any roosting bats within the frond skirt to abandon the tree during evening emergence without directly impacting roosting bats within the skirt. The remainder of the tree should be removed on the second day. This procedure need	**Activity:** Tree trimming and removal; Bat survey. **Timing:** Outside bat maternity season. Bat survey no more than 48 hours prior to tree removal. **Frequency:** As needed.	**Project Biologist** Initials Date	**City of National City** Initials Date		

Table 5-1. Mitigation Monitoring and Reporting Plan.

Mitigation Measure	Activity/Timing/ Frequency	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
not be implemented if the tree does not have fronds. All fronds must be removed/trimmed using chainsaws or other hand-tools. No use of heavy equipment shall be used to remove fronds. If bats emerge at any time during the tree trimming, trimming activities shall cease at that individual tree for the remainder of the day to allow for any additional bats roosting in the tree to emerge during evening hours when it is safe and appropriate for them to do so. Trimming of the tree may resume the following morning. Tree trimming activities in the fall should be conducted on days when weather conditions are such that roosting bats are unlikely to be in torpor (predicted overnight lows on evenings before and after the tree trimming activities are above 45 degrees Fahrenheit) to the extent practicable.					
Greenhouse Gas Mitigation Measures					
GHG-1: Adhere to National City's Climate Action Planning Reduction Measures. The Project shall implement the following applicable greenhouse gas-reducing measures, consistent with National City Climate Action Plan Update: ▪ Prior to issuance of a building permit, the Applicant shall demonstrate that the employee parking lot is electric vehicle ready (i.e., charging stations, preferred parking, etc.).	**Activity:** GHG reduction measures. **Timing:** Prior to the issuance of occupancy permits. **Frequency:** As needed.	**Applicant** _____ Initials _____ Date	**City of National City** _____ Initials _____ Date		

Table 5-1. Mitigation Monitoring and Reporting Plan.

Mitigation Measure	Activity/Timing/ Frequency	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
▪ Limit idling times for all employee and tanker truck vehicles, as well as construction equipment, to less than 5 minutes. ▪ Prior to issuance of a building permit, the Applicant shall demonstrate implementation of all applicable Nonresidential Voluntary Measures of the California Green Building Standards Code – Part 11, Title 24, California Code of Regulations (CalGreen) from the Planning and Design, Energy Efficiency, Water Efficiency and Conservation, and Material Conservation and Resource Efficiency Divisions (Appendix A5 of the 2022 California Green Building Standards Code). These measures shall include, but are not limited to, energy efficiency enhancements, water use reduction, sustainable building materials, improved indoor environmental quality, and waste management strategies.					
Tribal Cultural Resources Mitigation Measures					

Table 5-1. Mitigation Monitoring and Reporting Plan.

Mitigation Measure	Activity/Timing/ Frequency	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
CUL-1: Archaeological Monitoring. A qualified professional archaeologist, meeting or working under the direction of someone meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric and historic archaeology should be retained to monitor all ground-disturbing activities associated with Project construction, including vegetation removal, clearing, grading, trenching, excavation, or other activities that will disturb original (pre-project) ground. The monitor must have the authority to temporarily pause activity at the location in the event of an unanticipated discovery, so that he or she can direct the procedures in section 6.3.3.	**Activity:** Archaeological Monitoring. **Timing:** During ground-disturbing activities. **Frequency:** As needed.	**Qualified Archaeologist** Initials Date	**City of National City** Initials Date		
CUL-2: Native American Monitoring. A Native American monitor from a tribe that is traditionally and culturally affiliated with the Project Area should be retained to monitor all ground-disturbing activities associated with Project construction, including vegetation removal, clearing, grading, trenching, excavation, or other activities that will disturb original (pre-project) ground. The Native American monitor should have the authority to temporarily pause activity at the location in the event of an unanticipated discovery, so that he or she can coordinate with the Project archaeologist on the identification of a potential cultural resource and the Project archaeologist can direct the procedures in the following section.	**Activity:** Tribal Cultural Resource Monitoring. **Timing:** During ground-disturbing activities. **Frequency:** As needed.	**Native American Monitor** Initials Date	**City of National City** Initials Date		

CUL-3: Post-Review Discovery Procedures. If subsurface deposits believed to be cultural or human in origin are discovered during construction, all work must halt within a 100-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for pre-contact and historic archaeology, shall be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following notifications shall apply, depending on the nature of the find: ■ If the professional archaeologist determines that the find does not represent a cultural resource, work may resume immediately, and no agency notifications are required. ■ If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, he or she shall immediately notify the City, and applicable landowner. The agencies shall consult on a finding of eligibility and implement appropriate treatment measures if the find is determined to be a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines, or a Historic Property, as defined in 36 CFR 60.4. Work may not resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the site either: 1) is not a Historical Resource under CEQA or Section 106; or 2) that the treatment measures have been completed to their satisfaction. ■ If the find includes human remains, or remains that are potentially human, he or she shall ensure reasonable protection measures are taken to protect the discovery from disturbance (AB 2641). The archaeologist shall notify the San Diego County Medical Examiner (per § 7050.5 of	**Activity:** Resource evaluation. **Timing:** During construction. **Frequency:** As needed.	**Qualified Archaeologist** Initials Date	**City of National City** Initials Date		

Table 5-1. Mitigation Monitoring and Reporting Plan.

Mitigation Measure	Activity/Timing/ Frequency	Implementation Responsibility/ Verification	Responsibility for Oversight of Compliance/ Verification	Outside Agency Coordination	Comments
the Health and Safety Code). The provisions of § 7050.5 of the California Health and Safety Code, § 5097.98 of the California PRC, and AB 2641 will be implemented. If the Medical Examiner determines the remains are Native American and not the result of a crime scene, the Medical Examiner will notify the NAHC, which then will designate a Native American Most Likely Descendent (MLD) for the Project (§ 5097.98 of the PRC). The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the landowner does not agree with the recommendations of the MLD, the NAHC may mediate (§ 5097.94 of the PRC). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (§ 5097.98 of the PRC). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located (AB 2641). Work may not resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the treatment measures have been completed to their satisfaction.					

6.0 LIST OF APPENDICES

Appendix A –San Diego Clean Fuels Facility LLC Project Draft EIR (November 2024)

APPENDIX A

San Diego Clean Fuels Facility LLC Project Draft EIR (November 2024)