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November 13, 2019

Mr. Juan C. Perez
Director
County of Riverside, Transportation and Land Management Agency
4080 Lemon St., 14th Floor
P.O. Box 1605
Riverside, CA 92502-1605

RE: Proposed "Good Neighbor" Policy for Logistics and Warehouse/Distribution Uses

Dear Mr. Perez:

The California Attorney General's Bureau of Environmental Justice supports Riverside County's efforts to establish a good neighbor policy setting minimum standards for logistics and warehouse projects. As the policy recognizes, the logistics industry has experienced rapid growth in recent years, especially in the Inland Empire. A robust set of minimum standards can protect residents, level the playing field for projects across the County, and provide a predictable business environment. The Attorney General's Office therefore urges the County to adopt a good neighbor policy and provides several recommendations for improving the policy.

I. LOCAL IMPACTS OF WAREHOUSE FACILITIES AND THE NEED FOR A GOOD NEIGHBOR POLICY

The Inland Empire region, including Riverside County, has been an epicenter of warehouse development in the state. The Los Angeles Times reports that, "[i]n the last decade, more than 150 million square feet of industrial space, the vast majority of it warehouses, has been built in the Inland Empire."¹ Among the largest 100 logistics leases signed in 2018 nationwide, 20 were in the Inland Empire, nearly double the jurisdiction with the second-most signed leases.² Those 20 deals, representing only a fraction of overall logistics growth in the Inland Empire, were for a total of nearly 20 million square feet.³ Furthermore, this development has proliferated near communities. For example, in the Mead Valley area of Riverside County

¹ Los Angeles Times, *When your house is surrounded by massive warehouses*, October 27, 2019.

² See <https://www.cbre.us/about/media-center/inland-empire-largest-us-warehouse-leases>.

³ *Id.*

and the neighboring City of Perris, significant new warehouse developments have been placed adjacent to and surrounding pre-existing neighborhoods.⁴

The draft policy acknowledges that construction and operation of warehouse projects can come with significant environmental and public health impacts for nearby sensitive receptors. Indeed, the Attorney General's Office has recently filed several comment letters on logistics projects pursuant to the California Environmental Quality Act to ensure that those impacts are properly disclosed and mitigated.⁵ In addition, the California Air Resources Board (CARB)⁶ and South Coast Air Quality Management District (SCAQMD)⁷ regularly submit comment letters on the air quality impacts of logistics projects. This substantial involvement from state and regional actors underscores the need for minimum development standards for warehouse projects. It should also assure local decision-makers that attracting economic development need not be a race to the bottom.

As the County understands, nearby residents, schools, parks, and places of worship are exposed to the air pollution, noise, and traffic generated by logistics facilities. Among other pollutants, diesel trucks visiting warehouses emit nitrogen oxide (NO_x)—a primary precursor to smog formation and a cause of respiratory problems like asthma, bronchitis, lung irritation, and lung cancer—and diesel particulate matter (a subset of fine particulate matter that is smaller than 2.5 micrometers)—a contributor to cancer, heart disease, respiratory illnesses, and premature death.⁸ Trucks and on-site loading activities can also be loud, bringing disruptive noise levels during 24/7 operation that can cause hearing damage after prolonged exposure.⁹ The hundreds, and sometimes thousands, of daily truck and passenger car trips that warehouses generate contribute to traffic jams, deterioration of road surfaces, and traffic accidents.

⁴ See Attachment A, Warehouse Proliferation in the Mead Valley Vicinity from 2012 to 2019.

⁵ California Office of the Attorney General, Comment Letters Filed under the California Environmental Quality Act, <https://oag.ca.gov/environment/ceqa/letters>.

⁶ California Air Resources Board, California Environmental Quality Act Letters for Freight Facilities, <https://ww2.arb.ca.gov/resources/documents/california-environmental-quality-act-letters-freight-facilities>.

⁷ South Coast Air Quality Management District, CEQA Comment Letters – Year 2019, <http://www.aqmd.gov/home/rules-compliance/ceqa/commenting-agency/comment-letters-year-2019>

⁸ California Air Resources Board, Nitrogen Dioxide & Health, <https://ww2.arb.ca.gov/resources/nitrogen-dioxide-and-health> (NO_x); California Air Resources Board, Summary: Diesel Particulate Matter Health Impacts, <https://ww2.arb.ca.gov/resources/summary-diesel-particulate-matter-health-impacts>; Office of Environmental Health Hazard Assessment and American Lung Association of California, Health Effects of Diesel Exhaust, <https://oehha.ca.gov/media/downloads/calenviroscreen/indicators/diesel4-02.pdf> (DPM).

⁹ Noise Sources and Their Effects, <https://www.chem.purdue.edu/chemsafety/Training/PPETrain/dblevels.htm> (a diesel truck moving 40 miles per hour, 50 feet away, produces 84 decibels of sound).

These environmental impacts tend to be concentrated in neighborhoods already suffering from disproportionate health impacts. According to CalEnviroScreen 3.0, CalEPA's screening tool that ranks each census tract in the state for pollution and vulnerability, many communities in unincorporated Riverside County experience some of the highest pollution in the state and are especially vulnerable to the resulting health effects.¹⁰ For example, several census tracts in Mead Valley rank worse than 90 percent of the rest of the state for combined pollution burden and vulnerability. The majority of Riverside County is in the worst 10% for exposure to ozone, and areas near Mead Valley, Moreno Valley, Corona, Indio, Murrieta, and Temecula have elevated exposures to fine and/or diesel particulate matter. Unsurprisingly, Riverside County residents suffer from health issues that correspond with high levels of air pollution. Areas near Banning, Hemet, Mead Valley, Moreno Valley, and Perris have among the worst rates of asthma and/or cardiovascular disease in the state, and many communities suffer from especially high rates of low birth weight infants. These health issues both are caused by exposure to air pollution, and make the residents more vulnerable to that exposure. Moreover, various communities across unincorporated Riverside County are low-income communities and communities of color. Nearly half of the County's population is Latinx, 19% of whom live below the poverty line.¹¹ Given the high exposure County residents experience, and their vulnerability to this exposure, the County should take care to avoid adding to the existing pollution burden in these communities.

Despite the negative environmental and health impacts they bring to communities, warehouse facilities are often approved on the promise that they will bring jobs. However, the economic benefits of these facilities are often overstated. Many warehouse jobs are part-time, temporary, lack benefits, and/or do not pay a living wage. According to a report from the Los Angeles County Economic Development Corporation's Institute for Applied Economics (LAEDC report), employment in warehousing and logistics jobs in Los Angeles and the Inland Empire grew by 55.1% from 2005 to 2015, while real wages decreased by 9% in the same period.¹² Moreover, a 2018 nationwide industry-sponsored study found that 48% of warehouse employees worked a second job, and that 40% of those employees worked at least 31 hours per

¹⁰ CalEnviroScreen 3.0, available at <https://oehha.ca.gov/calenviroscreen> (as of January 17, 2019). CalEnviroScreen is a tool created by the Office of Environmental Health Hazard Assessment that uses environmental, health, and socioeconomic information to produce scores and rank every census tract in the state. A census tract with a high score is one that experiences a much higher pollution burden than a census tract with a low score. Office of Environmental Health Hazard Assessment, CalEnviroScreen 3.0 Report (January 2017), available at <https://oehha.ca.gov/media/downloads/calenviroscreen/report/ces3report.pdf>.

¹¹ U.S. Census Bureau, American Community Survey (data from 2017). 15.6% of all people in Riverside County live below the poverty line, compared to the national average of 13.4%.

¹² Los Angeles County Economic Development Corporation, *Goods on the Move! Trade and Logistics in Southern California*, https://laedc.org/wp-content/uploads/2017/06/TL_20170515_Final.pdf, at 17-18.

week at their second jobs.¹³ Although logistics industry growth and the attendant demand for workers has increased wages somewhat in recent years, still only 65% of workers surveyed made at least \$12 an hour.¹⁴

Job growth from warehouse projects may also be temporary. The LAEDC report warned that “employment prospects for tomorrow will dim as ... automation of these jobs becomes a reality.” In fact, JD.com, a major online retailer in China, last year unveiled a fully automated warehouse that can fulfill 200,000 packages a day while employing only four workers, who service the facility’s robots.¹⁵ Prominent American retailers’ substantial investments in automation are well-documented.¹⁶

For all these reasons, the County should take special care analyzing the expected benefits of logistics facilities, as well as evaluating the environmental and health impacts of siting these facilities near communities. A good neighbor policy would appropriately place minimum development standards on warehouse projects to ensure that the facilities in fact benefit the communities where they are located. Although improvements are suggested below, the County’s good neighbor policy would be a step in the right direction toward more thoughtful, health-protective, and just warehouse development County-wide. The good neighbor policy could also become a model for other jurisdictions that are grappling with similar issues. Accordingly, the Attorney General’s Office encourages the County to adopt a good neighbor policy.

II. RECOMMENDATIONS FOR IMPROVING THE DRAFT “GOOD NEIGHBOR” POLICY

While we applaud the County’s effort in developing the policy, we have identified several areas that would benefit from revisions to the draft policy. These recommendations fall into four categories—(1) buffers between warehouses and sensitive receptors, (2) cumulative impacts analyses, (3) mitigation of engine emissions, and (4) community engagement.

¹³ ProLogistix, 2018 Warehouse Employee Opinion Survey Results, <https://www.newcastlesys.com/hubfs/docs/2018-Warehouse-Employee-Opinion-Survey-Results.pdf>, at 2.

¹⁴ *Id.* Even though Amazon made headlines when it announced that it will pay its employees a \$15 per hour minimum wage, it simultaneously ended programs that paid workers bonuses and gave them stock. CBS News, *Amazon cutting bonuses and stock benefits as it raises minimum wage to \$15*, <https://www.cbsnews.com/news/amazon-to-cut-bonuses-for-warehouse-workers-and-stock-benefits-as-it-raises-minimum-wage-to-15/>.

¹⁵ Freight Waves, *JD.com opens automated warehouse that employs four people but fulfills 200,000 packages daily*, <https://www.freightwaves.com/news/technology/jdcom-opens-automated-warehouse-that-employs-four-people-but-fulfills-200000-packages-daily>.

¹⁶ See, e.g., InvestorPlace, *Amazon Stocks Should Grow on Its Automation Efforts*, <https://investorplace.com/2019/06/amazon-stock-can-deliver-better-returns-due-to-higher-automation-investments/>; Bloomberg, *Kroger Goes Full Robot to Take On Amazon*, <https://www.bloomberg.com/opinion/articles/2019-07-22/kroger-goes-full-robot-to-take-on-amazon-with-ocado>.

A. The County Should Strengthen the Buffer Between Warehouses and Sensitive Receptors.

Most importantly, the County should increase the distance of the buffer between sensitive receptors and warehouse facilities and revise the way the buffer is measured. The current draft states that warehouse facilities “should be generally designed so that truck bays and loading docks are a minimum of 300 feet, measured from the dock building door to the occupied structure of a sensitive receptor. This distance may be reduced if the site design include berms or other similar features to appropriately shield and buffer the sensitive receptors from the active truck operations areas.”¹⁷ This buffer is insufficient for three reasons. First, it is too small. CARB recommends that sensitive land uses be separated from warehouses by at least 1,000 feet, based on data showing that localized air pollution drops off by 80% about 1,000 feet away.¹⁸ Riverside County has vast swathes of vacant land, such that implementation of CARB’s recommended buffer size is feasible without significantly constraining potential economic development.

Second, the way the 300-foot buffer is measured—from the warehouse dock building door to the occupied structure of a sensitive receptor—provides no actual protection. Three hundred feet—including a backyard, warehouse wall, vegetative buffer, and potentially a road—will typically separate any warehouse building and residence. For example, Attachment B to this letter contains an aerial image of a small, formerly rural community near Mead Valley that is now surrounded by warehouses. All of the occupied structures in the image are at least 300 feet from the nearest dock door. Measuring the buffer from the warehouse dock door to the occupied structure of a sensitive receptor also ignores how sensitive receptors are exposed to the facility’s impacts. Trucks drive and idle on other parts of a warehouse property besides the dock doors, and sensitive receptors are most exposed to pollution outdoors, such as in a backyard or school playground. Finally, the buffer provision expressly permits exceptions to its rule. It states that facilities “should generally be designed” with the buffer, and that the 300-foot buffer “may be reduced” if the site design shields the sensitive receptors. The entire good neighbor policy is non-binding guidance, so it already allows for reasonable flexibility. The buffer provision’s built-in exceptions invite development that ignores the buffer altogether.¹⁹

B. The County Should Add a Requirement to Conduct Meaningful Cumulative Air Quality Impact Analysis.

We are pleased that the draft good neighbor policy requires air quality, health risk assessment, noise, and construction traffic analyses for warehouse projects. In this spirit of robust disclosure, and particularly where a warehouse facility is sited near sensitive receptors,

¹⁷ Good Neighbor Policy (October 15, 2019 Draft), at 4.

¹⁸ California Air Resources Board, Air Quality and Land Use Handbook: A Community Health Perspective (April 2005), at 4-5.

¹⁹ Similarly, the County should remove Policy 3.1. The Purpose and Applicability sections make clear that individual projects are unique, such that deviating from a particular policy may be justified in special circumstances.

the County should also require analysis of a project's cumulative air quality impacts with other nearby sources of pollution. Often, analyses under the California Environmental Quality Act (CEQA) conclude that a project has no significant *cumulative* air quality impact on the basis that the project's impacts alone do not exceed SCAQMD's significance thresholds for an *individual* project. CEQA documents sometimes use this rationale even if the project is adjacent to other warehouses and their combined impact would clearly exceed SCAQMD standards. As a California appellate court has stated, "[o]ne of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small sources."²⁰ Including a requirement to expressly disclose a warehouse project's cumulative air quality impacts with other projects would ensure that decision makers are aware of the project's cumulative impacts when considering whether to approve facilities that would contribute to communities' cumulative pollution burden. It would also ensure compliance with CEQA's requirement that cumulative impact analysis consider the project's incremental impact in combination with past, present, and reasonably foreseeable future projects. CEQA Guidelines, Appendix G, §§ 15130, 15355; *Communities for a Better Env't v. California Res. Agency* (2002) 103 Cal.App.4th 98, 118 ("[T]he guiding criterion on the subject of cumulative impact is whether any additional effect caused by the proposed project should be considered significant given the existing cumulative effect."); *Kings Cty. Farm Bureau v. City of Hanford*, *supra*, 221 Cal.App.3d 692, 719-21 (holding that relatively small air quality impacts from a project do not eliminate the need to consider the project's combined impacts with other development).

C. The County Should Improve its Mitigation of Warehouse-Related Engine Emissions.

In addition, the County should strengthen its measures to reduce warehouse-related engine emissions. For example, the County should require that on-site equipment for operations be electric. This is a common mitigation measure found in many warehouse projects, and electric on-site equipment substantially reduces on-site emissions and noise. The County should also revise policy 2.2 so that off-road construction equipment must meet Tier 4 engine standards. Requiring Tier 4 engines is feasible—CARB enacted those standards in 2005—and much cleaner, reducing particulate matter and nitrogen oxide emissions by about 90%. In addition, the County should revise policy 3.12 to require electrical connections at all loading/unloading docks and trailer spaces for cold storage warehouses. Cold storage warehouses attract trucks with transport refrigeration units, which generate significantly higher levels of diesel, nitrogen oxide, and greenhouse gas emissions than trucks without such units.²¹ Without electrical connections, these auxiliary diesel engines idle at warehouse facilities, contributing to higher localized health

²⁰ *Kings Cty. Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720.

²¹ California Air Resources Board, Preliminary Health Analyses: Transport Refrigeration Unit Regulation, Public Review Draft (October 18, 2019), https://ww3.arb.ca.gov/cc/cold-storage/documents/hra_healthanalyses2019.pdf, at ES-2 to ES-3.

risks.²² CARB is currently developing new regulations for transport refrigeration units, so it would also benefit projects in the County to get ahead of the incoming regulations.²³

D. The County Should Clarify its Community Engagement Requirement.

Finally, we appreciate the County's acknowledgment of the importance of including communities in the warehouse project design, siting, and approval process. Policy 6.1 requires warehouse project applicants to "engage in a community outreach effort to engage the existing community in determining issues of concern that can be addressed through site design and other means during the project land use entitlement process."²⁴ While this policy has good intentions, it is unclear what the County expects applicants to do to comply with the policy, and thus it may not accomplish the County's goal of increasing community engagement. More detail would make this community engagement policy more predictable for project applicants and more enforceable for the County. To provide more notice while maintaining flexibility, the County could add examples of recommended community engagement strategies to Policy 6.1. For example, Policy 6.1 could ask project applicants to hold a series of community meetings with affected residents and incorporate suggestions into the project design. Other suggestions to promote successful community outreach strategies include:

- Posting information on a website about the project, such as a complete, accurate project description, maps and drawings of the project design, and directions for how communities can provide input. The website and information should be in a format that is easy to navigate and understand.
- Providing notice by mail to residents and schools within a certain radius of the project and by erecting a prominent sign on the project site. The notice should include a brief project description and directions to the website and how to provide input on the project.
- Providing translation or interpretation in residents' native language, where appropriate.

III. CONCLUSION

The County's good neighbor policy would help safeguard residents' health, without posing undue burdens on economic development. We therefore urge the County to adopt minimum development standards for warehouse projects County-wide and incorporate the recommendations in this letter. We are available to provide assistance to the County as it considers the good neighbor policy, and to provide feedback on any measure the County is considering. Please do not hesitate to contact me if you have any questions or would like to discuss.

²² *Id.*

²³ California Air Resources Board, New Transport Refrigeration Unit Regulation in Development, <https://ww2.arb.ca.gov/our-work/programs/transport-refrigeration-unit/new-transport-refrigeration-unit-regulation>.

²⁴ Good Neighbor Policy (October 15, 2019 Draft), at 7.

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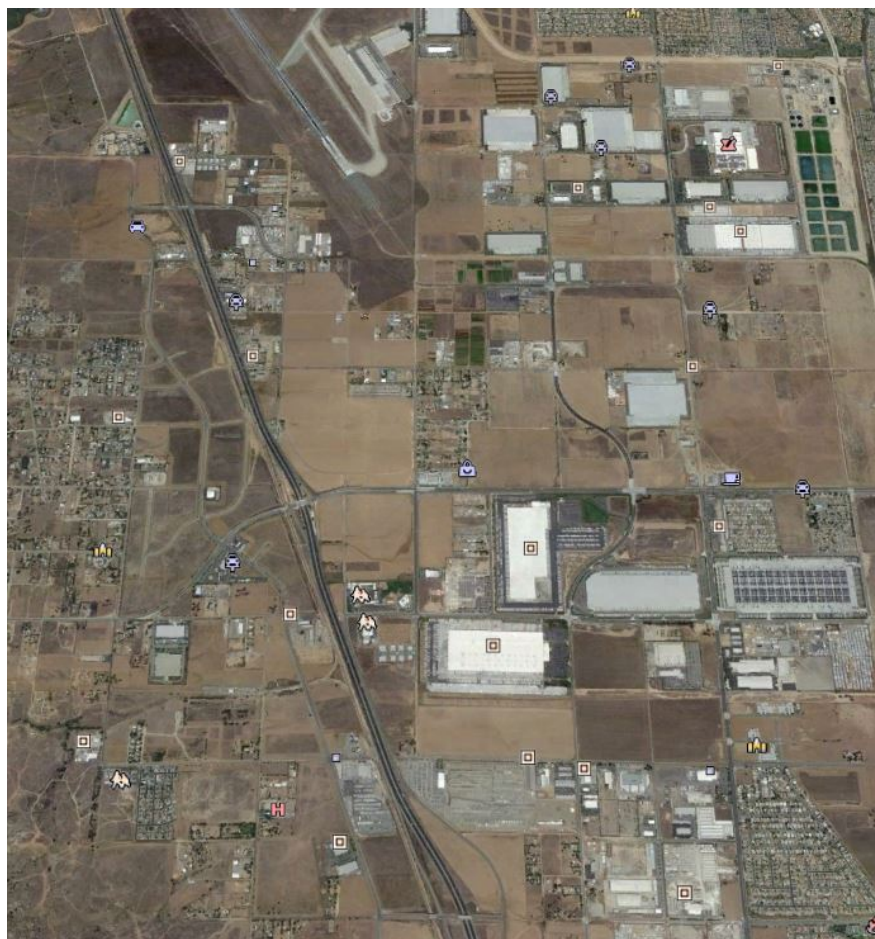
Sincerely,

A handwritten signature in dark ink, appearing to read 'R. Swanson', with a stylized, flowing script.

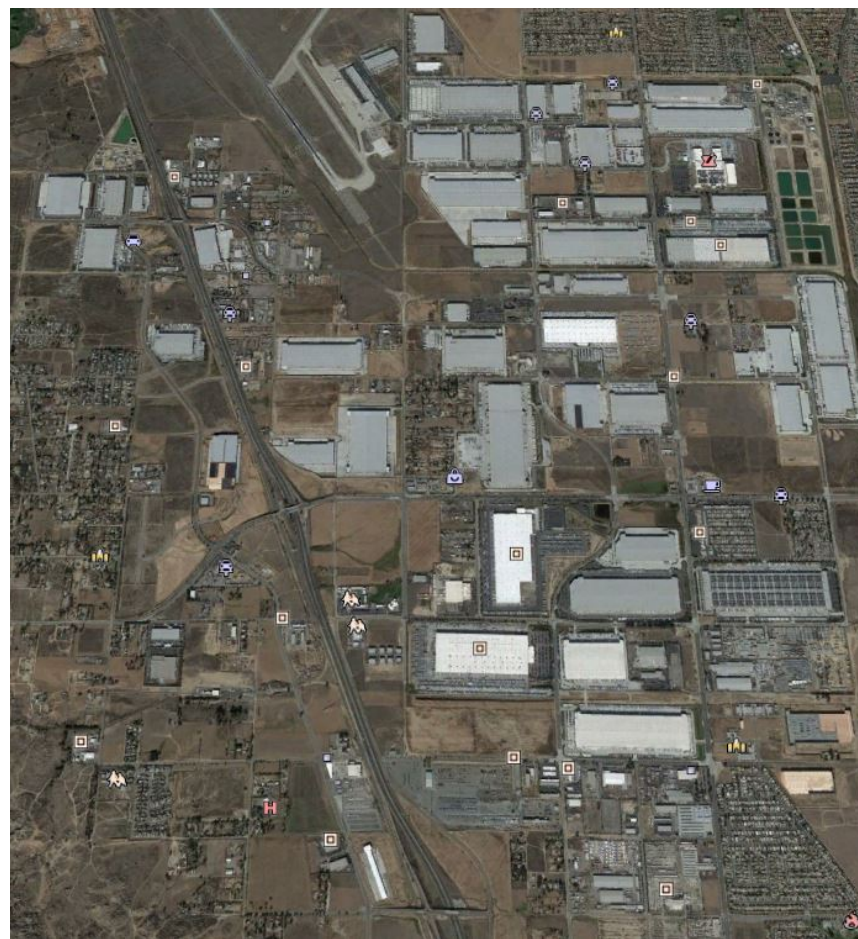
ROBERT SWANSON
Deputy Attorney General

For XAVIER BECERRA
Attorney General

Attachment A: Warehouse Proliferation in the Mead Valley Vicinity from 2012 to 2019



2012



2019

Attachment B: Aerial Image Illustrating a 300-Foot Buffer



As indicated by the annotations, all structures occupied by sensitive receptors in this image are at least 300 feet from the nearest warehouse dock door, even though warehouses surround this community and some of the dock doors face residences.²⁵

²⁵ Intersection of N. Webster Ave., W. Markham St., and Ramona Expy. in Perris. Cite: Google Earth (distances from ruler tool).