



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

February 12, 2020

Dave Navecky
Surface Transportation Board
Office of Environmental Analysis
395 E Street SW
Washington, D.C. 20423

Subject: Oakland Global Rail Enterprise Project Scoping Comments, Docket No. FD 36312,
OGRE Authority to Operate a Rail Line in Oakland, California

Dear Mr. Navecky:

The U.S. Environmental Protection Agency has reviewed the request to solicit comments on potential environmental issues and concerns that may be associated with the proposed Surface Transportation Board decision to grant authority to operate rehabilitated rail tracks in Oakland, California. The solicitation identified that the proposed project would occur within the former Oakland Army Base redevelopment area and that the project is a critical component of the OAB redevelopment plan with potential commodities being transported via rail including proteins, resins, iron ore, copper concentrate, coal, soda ash, and agricultural products. The EPA's comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508) and our NEPA review authority under Section 309 of the Clean Air Act.

Potential Air Quality Impacts and California Assembly Bill 617

The EPA recognizes the value of increased goods movement by rail operations when freight movement is implemented with the highest level of environmental and public health protection, including mitigation measures to reduce potential adverse effects. We understand that movement of goods via rail may result in fewer diesel truck trips, thereby generating fewer emissions than may result if the same volume of freight were to be transported via diesel trucks. However, the project area is located adjacent to West Oakland, a community that faces a high cumulative exposure burden to criteria air pollutants and toxic air contaminants. We emphasize the importance of involving the West Oakland community in the scoping for the proposed project and encourage the STB to incorporate community concerns into all aspects of the project planning, implementation, and mitigation. We also note that there is a high level of public interest in potential impacts associated with the commodities proposed for processing at the Oakland Army Base redevelopment, including the potential coal related impacts at the Port's railyard, in the transport path, and potential downstream impacts.

Because of its high exposure burden, West Oakland was selected by the California Air Resources Board to participate in the first year of the state's Community Air Protection Program under California Assembly Bill 617. The Bay Area Air Quality Management District has been working closely with West Oakland residents to devise and implement the West Oakland Community Action Plan to address disproportionate air pollution impacts, with a strong focus on reducing emissions from Port-related activities. We recommend that the STB continue to coordinate with Bay Area Air Quality Management District to understand the potential air quality impacts of the proposed project. We further recommend

that the STB notify the West Oakland AB 617 Steering Committee about the project and describe any coordination that has taken place with West Oakland, including demonstrating how the project would be consistent with the West Oakland Community Action Plan. The STB can offer the community opportunities to inform the project's mitigation and provide them with project-related updates. We also recommend that, given the project setting and potential increase in air pollutant emissions, the STB provide a qualitative description of associated health effects and consider the following analyses: quantification of project-related emissions; air dispersion modeling; identification of sensitive receptors and populations near the rail line; and a risk and health impact assessment if the emissions or air pollutant concentrations warrant detailed analysis and disclosure.

Environmental Justice and Title VI of the Civil Rights Act

In the draft NEPA document, we recommend that the STB discuss potential environmental justice concerns, such as air quality, water quality, noise, vibration, odors, etc. Include any environmental justice issues raised by stakeholders and during scoping meetings. Clearly and effectively define the "reference community" and the "affected community" to effectively determine whether there are disproportionately high and adverse human health or environmental impacts by comparing the impacts to the affected community with the impacts to the reference community. The EPA also recommends that the STB disclose whether the proposed project, and connected actions to the proposed project, may disproportionately and adversely affect low-income and minority populations in the surrounding area and identify any measures that could mitigate adverse impacts. We encourage the STB to use information gathered from public outreach efforts to design mitigation measures that respond to the needs of communities that would be adversely affected by the project. Efforts to reduce environmental justice impacts could assist the City and the Port, as a recipient of Federal funds, to meet their potential obligations under Title VI of the Civil Rights Act.

Executive Order 12898 directs federal agencies to pursue environmental justice to the greatest extent possible by identifying and addressing any disproportionately high and adverse human health or environmental effects that the agency's programs, policies, or activities may have on minority and low-income populations. The memorandum accompanying the EO highlights both NEPA and the Civil Rights Act of 1964 as examples of existing statutory authorities that can be used to address environmental justice. We note that the Council on Environmental Quality has developed guidance to address EJ in the environmental review process, and the recently completed *Promising Practices for Environmental Justice Methodologies in NEPA Reviews* may also serve as a useful resource during the environmental review process. This document is a compilation of methodologies from current agency practices identified by the NEPA Committee of the Federal Interagency Working Group on Environmental Justice and provides recommendations on applying EJ methodologies that have been established in federal NEPA practice. In addition, recipients of federal assistance have an obligation to ensure that their programs do not result in discriminatory effects or burdens on populations protected under Title VI of the Civil Rights Act.

Relationship to Other Planning and Analysis Documents

We recommend that the STB clearly identify how the proposed project is related to the prior Environmental Impact Report prepared for Oakland Army Base redevelopment to comply with the California Environmental Quality Act. If the STB is proposing to incorporate by reference any elements of the prior EIR, or other planning/Analysis documents, the EPA recommends that the STB confirm that all reference documents remain timely for decisionmaking and are available to the public at the time of the release of the environmental document being prepared.

Thank you for the opportunity to provide comments to the STB as your agency considers the scope of analysis and the public outreach process for assessing and disclosing the potential environmental impacts of the proposed OGRE rail project. When the environmental document is released for public review, please send a copy to the address above (mail code: TIP-2). If you have any questions, please contact me at 415-947-4161, or dunning.connell@epa.gov.

Sincerely,

A handwritten signature in dark ink that reads "Connell Dunning". The signature is written in a cursive, flowing style.

Connell Dunning
Environmental Review Branch

Cc via email: Alison Kirk, Bay Area Air Quality Management District
Stanley Armstrong, California Air Resources Board