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September 30, 2022

### **Via Email and Overnight Mail**

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### **Re: Comments on Permit Application For Authority To Construct Fortera ReCarb Small Commercial Plant (Permit No. 22-PO-15)**

Dear Mr. Hellman and Mr. Waldrop:

On behalf of **Safe Fuel and Energy Resources California (“SAFER California”)**, we submit these comments on the Permit Application For Authority To Construct (“ATC Application”) the Fortera ReCarb Small Commercial Plant (“Project”) submitted by CalPortland Company, Inc. (“Applicant”) to the Shasta County Air Quality Management District (the “District”).<sup>1</sup> The Applicant proposes to install a Fortera ReCarb Small Commercial Plant (“SCP”) to operate in conjunction with the Portland cement manufacturing process at the facility. The Fortera process utilizes CaO, ammonium chloride aqueous ammonia, and the CO<sub>2</sub> from exhaust streams from the existing cement kiln exhaust to produce the Reactive Calcium Carbonate. The Project requires a permit for an Authority to Construct and Title V Minor Permit Modification. The Project is located at 15390 Wonderland Blvd. in Redding, California, 96003.

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<sup>1</sup> Shasta County Department of Resource Management Air Quality Management District, Application for Authority to Construct/Permit to Operate, (Permit Number 22-PO-15) (Received by Shasta County AQMD August 4, 2022) (on file with author) (“ATC”).

We reviewed the ATC Application and reference documents with assistance of Commenters' air quality expert consultant Dr. Phyllis Fox Ph.D, whose comments and qualifications are attached.<sup>2</sup> Based on our review of the ATC Application, there is substantial evidence demonstrating that the Project will exceed District thresholds for emissions of NO<sub>x</sub>, thus requiring Best Available Control Technology ("BACT") pursuant to Shasta County Air Quality Management District Rule 301<sup>3</sup>, and requiring public circulation of a draft permit pursuant to District Rule 604.<sup>4</sup> Additionally, a new CEQA document should be prepared for the ATC Project because the Mitigated Negative Declaration ("MND")<sup>5</sup> prepared for the Project by Shasta County failed to accurately analyze facility emissions.<sup>6</sup>

### A. Statement of Interest

SAFER CA advocates for safe processes at California industrial facilities to protect the health, safety, standard of life and economic interests of its members. SAFER CA supports sustainable development in California that complies with environmental and public health laws. Its members have an interest in enforcing environmental and air quality protection laws which require the disclosure of potential environmental impacts of, and ensure safe operations and processes for, California's industrial, chemical, and fuel processing, storage, and transport projects. Failure to adequately address the environmental impacts of industrial processes poses a substantial threat to the environment, worker health, surrounding communities and the local economy.

SAFER CA supports the sustainable development of carbon capture, fuel, and alternative fuel resources in California. However, poorly planned industrial projects can adversely impact the economic wellbeing of people who perform construction and maintenance work in refineries, port terminals, fuel distribution facilities, and the surrounding communities. Plant and terminal shutdowns caused by accidental toxic releases and infrastructure breakdowns have caused prolonged work stoppages. Such nuisance conditions and catastrophic events impact local

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<sup>2</sup> See **Exhibit A**, Phyllis Fox, Ph.D., P.E., Comments on Fortera™ ReCarb™ Plant Project (September 29, 2022) ("Fox Comments).

<sup>3</sup> Shasta County Air Quality Management District Rule 301. Available at: <https://ww2.arb.ca.gov/sites/default/files/classic/technology-clearinghouse/rules/RuleID3066.html> ("Air District Rule").

<sup>4</sup> *Id.* at Rule 604.

<sup>5</sup> See *Environmental Initial Study & Mitigated Negative Declaration for Amendment 21-0003 (Use Permit 297-78) Lehigh Cement West, Inc.*, SCH Number 2022040041 (March 31, 2022), prepared by Shasta County Department of Resource Management Planning Division, available at <https://ceqanet.opr.ca.gov/2022040041/Attachment/splJ-7>.

<sup>6</sup> Cal. Code Regs., tit. 14, § 15052(a).

communities and the natural environment, and can jeopardize future jobs by making it more difficult and more expensive for businesses to locate and people to live in the area. The participants in SAFER CA are concerned about projects, like this one, that present serious environmental risks and public service infrastructure demands without providing countervailing employment and economic benefits to local workers and communities.

The members represented by the participants in SAFER CA live, work, recreate and raise their families in Shasta County. Accordingly, they would be directly affected by the Project's adverse environmental impacts. The members of SAFER CA's participating labor organizations may also work on the Project itself. They will, therefore, be first in line to be exposed to any hazardous materials, air contaminants, and other health and safety hazards, that exist onsite.

### **B. BACT Requirement and Duty to Circulate Draft ATC Permit**

Dr. Fox reviewed the ATC Application and determined that it substantially underestimated the Project's nitrogen oxide ("NOx") emissions. When properly calculated to account for applicable emissions factor ratings, Dr. Fox concludes that NOx emissions exceed District thresholds, triggering a requirement to utilize BACT for the Project.

Dr. Fox explains that the supporting emission calculations in Appendix B of the ATC Application indicate that burner criteria pollutant emissions were calculated from AP-42 emission factors.<sup>7</sup> These calculations are made by multiplying the emissions from the Fortera Process, Including DR-500 Burner and the DR-510 Burner by an order of magnitude.<sup>8</sup> Dr. Fox clarifies that all of these emission factors have an EPA "emission factor rating" of "D", meaning they "may provide an order-of-magnitude value for the source."<sup>9</sup> As such, the NOx emissions of the Project may be ten times higher than estimated in the ATC Application. According to Dr. Fox's calculations, the NOx emission for burners DR-500 and DR-510 are potentially as high as 29.9 lb/day and 34.1 lb/day, respectively.<sup>10</sup> These emissions exceed the District's thresholds of 25 pounds per day, thus requiring BACT.

District Rule 301 provides that "[a]n applicant shall apply BACT to any new emissions unit or modification of an existing emissions unit that results in an

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<sup>7</sup> Fox Comments, p. 3.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Fox Comments, p. 3.

emission increase and the potential to emit for the emission unit equals or exceeds the following amounts: Pollutant - Nitrogen Oxides, Pounds/Day - 25.0.<sup>11</sup>

Further, District Rule 604 provides that:

Within ten calendar days following a preliminary decision on the Authority to Construct, the APCO shall publish in at least one newspaper of general circulation in the district a notice stating the preliminary decision of the APCO noting how pertinent information can be obtained, and inviting written public comment for a 30-day period following the date of publication. Copies of such notice shall be sent to the ARB and the EPA.<sup>12</sup>

The Project is required to implement BACT for NO<sub>x</sub> emissions from burners DR-500 and DR-510 and the District is therefore required to circulate the notice of preliminary decision of the APCO for a 30-day public comment period.<sup>13</sup>

### **C. The District Should Prepare an EIR for the Project as the Responsible CEQA Agency**

The NO<sub>x</sub> emissions in the MND for the Project prepared by the Shasta County Department of Resource Management Planning Division on March 31, 2022 relied on the same erroneous emissions calculations as the ATC Application.<sup>14</sup> The MND provided that the Project will emit 1.17 tons per year of NO<sub>x</sub>, which equates to 6.4 pounds of NO<sub>x</sub> per day.<sup>15</sup> The ATC relies on the same emissions calculation of 2.99 and 3.44 pounds per day of NO<sub>x</sub> totaling to 6.4 pounds per day, as shown below.<sup>16</sup>

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<sup>11</sup> Air District Rule 301.

<sup>12</sup> Air District Rule 604.

<sup>13</sup> *Id.* at Rule 604.

<sup>14</sup> See *Environmental Initial Study & Mitigated Negative Declaration for Amendment 21-0003 (Use Permit 297-78) Lehigh Cement West, Inc.*, SCH Number 2022040041 (March 31, 2022), prepared by Shasta County Department of Resource Management Planning Division, available at <https://ceqanet.opr.ca.gov/2022040041/Attachment/splJ-7>.

<sup>15</sup> *Id.*

<sup>16</sup> ATC, p. 3-1.

Table 2. BACT Emissions Comparison

Description	PM <sub>10</sub> (lb/day)	NO <sub>x</sub> (lb/day)	SO <sub>2</sub> (lb/day)	CO (lb/day)	ROG (lb/day)
Fortera Process, including DR-500 Burner	0.45	2.99	0.04	5.02	0.33
DR-510 Burner	0.52	3.41	0.04	5.73	0.38
F-126 Bag Filter/Receiver	12.34	--	--	--	--
F-114 Bin Vent	3.09	--	--	--	--
FR-202 Bag Filter/Receiver	0.89	--	--	--	--
FR-612 Bag Filter	0.44	--	--	--	--
F-632 Bin Vent	3.09	--	--	--	--
F-132 Bin Vent	0.85	--	--	--	--
F-535 Bin Vent	0.85	--	--	--	--
F-531 Bin Vent	0.85	--	--	--	--
F-537 Loading Spout Filter	2.26	--	--	--	--
BACT Thresholds	80.0	25.0	80.0	500.0	25.0
Individual Unit Emissions > BACT Threshold?	No	No	No	No	No

The erroneous NO<sub>x</sub> emissions calculations render the MND prepared for the Project inadequate. As a responsible agency, the District has a responsibility to draft an EIR to accurately analyze the impacts of the operational NO<sub>x</sub> emissions of the Project.

As a responsible agency, the District “has responsibility for carrying out or approving a project,” and the proposed ATC is part of the “project” within the meaning of CEQA because the ATC is a discretionary approval that will authorize activities related to the Project which have the potential to cause significant impacts on the environment.<sup>17</sup>

Pursuant to CEQA Guidelines section 15052, where a responsible agency is called on to grant an approval for a project subject to CEQA for which another public agency was the appropriate lead agency, the responsible agency must assume the role of the lead agency when the CEQA lead agency prepared an inadequate environmental document for the project.<sup>18</sup> Here, as a responsible agency, the District has a duty to consider the environmental effects of the project and conduct subsequent environmental review to accurately reflect the NO<sub>x</sub> emissions of operation of the Project because the Planning Division prepared an inadequate MND. Absent additional environmental review, the ATC and the Project cannot lawfully be approved.

#### D. Conclusion

For the reasons discussed above, the Project requires BACT for NO<sub>x</sub> emissions which exceed the District thresholds. Therefore, the ATC requires circulation for public review and comment. The District has a duty under CEQA to

<sup>17</sup> Pub. Res. Code §§ 21069; 21065.

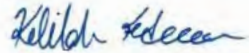
<sup>18</sup> Cal. Code Regs., tit. 14, § 15052(a).

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conduct additional environmental review and prepare an environmental review document for public review and circulation. Until these actions are performed, the District may not lawfully approve the Project.

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,



Kelilah D. Federman

Attachment  
KDF:acp

