# ERRATA
# STACK Data Center Expansion Project

**File No.** SP19-018

**Location** 2001 Fortune Drive, San José

**Council District** 4

## BACKGROUND

The Initial Study/Mitigated Negative Declaration (IS/MND) for the STACK Data Center Expansion Project was circulated for public review from February 14, 2020 to March 4, 2020 and then extended for one week until March 11, 2020. Since the public review of the IS/MND, City staff, in light of the comments received, has revised portions of the IS/MND for clarity. These changes are listed below in the section titled "Text Revisions to the Initial Study."

## PURPOSE OF ERRATA

The California Environmental Quality Act (CEQA) Guidelines, Section 15073.5, requires that a lead agency recirculate a mitigated negative declaration "when the document must be substantially revised." A "substantial revision" includes: (1) identification of a new, avoidable significant effect requiring mitigation measures or project revisions, and/or (2) determination that proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures and revisions must be required.

The CEQA Guidelines specify situations in which recirculation of a mitigated negative declaration is not required. This includes, but is not limited to, situations in which "new information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration." In response to a comment letter sent by the Bay Area Air Quality Management District (BAAQMD), changes to the greenhouse gas emissions section are a result of incorporating information regarding the State's long-term greenhouse gas reduction targets and the San José Clean Energy program. In addition, Mitigation Measure GHG-1 was updated to a more effective measure, also in response to a comment from the BAAQMD. The overall findings of the greenhouse gas emissions analysis does not change. Recirculation of the mitigated negative declaration is therefore not required in accordance with Section 15073.5(c) and 15074.1.

Changes to the analysis in the hazards and hazardous materials section are a result of the applicant's Phase II Quality Evaluation Report (Phase II Report), dated June 19, 2019. This report provided additional information that provides more specific and effective mitigation measures regarding the Phase II Report findings of soil vapor concerns. The overall finding of the hazards and hazardous materials analysis does not change. Recirculation of the mitigated negative declaration is therefore not required in accordance with Section 15073.5(c) and 15074.1.

## TEXT REVISIONS TO THE INITIAL STUDY

Deletions are shown as ~~strikethrough~~ text and additions are shown in underlined text.

The following changes are made to Section 4.3, *Air Quality*.

***Mitigation Measures***

Because project construction would not generate emissions exceeding any BAAQMD criteria pollutant emission thresholds but does present a potential excess cancer risk due to DPM exposure at nearby residences during construction, the following mitigation measure focuses on reduction of DPM emissions for construction.

*Mitigation Measure AQ-2*

The project applicant or contractor shall select equipment during construction to minimize emissions. The project applicant shall submit a construction management plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval, prior to issuance of any grading and building permits. The construction management plan shall demonstrate that the off-road equipment used on site to construct the project would achieve a fleet-wide average 85-percent reduction in $PM_{2.5}$ exhaust emissions or more. Options to achieve this reduction ~~could~~ shall include~~, but are not limited to,~~ a minimum of one or more of the following:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet USEPA particulate matter emissions standards for Tier 4 engines or equivalent.
- Use of equipment that includes California Air Resources Board (CARB)-certified Level 3 diesel particulate filters or alternatively-fueled equipment (i.e., non-diesel).
- Use of added exhaust muffling and filtering devices.

The following changes are made to Section 4.8, *Greenhouse Gas Emissions*.

***BAAQMD Significance Thresholds***

According to the BAAQMD CEQA Guidelines (2017c), the efficiency threshold is appropriate for mixed-use projects that include both residential and non-residential land uses. Therefore, this approach is not appropriate for the proposed project because there are no residents. Additionally, business as usual (BAU) emissions are no longer recommended following the Newhall Ranch ruling. Therefore, although the BAAQMD has not yet quantified a threshold for 2030, reduction of the 1,100 MT $CO_2e$ bright-line threshold by 40 percent to 660 MT $CO_2e$/year would be consistent with state goals detailed in SB 32. As such, the adjusted bright-line threshold of 660 MT $CO_2e$ is the most appropriate threshold for the project.

At this time, the State Legislature has codified a target of reducing emissions to 40 percent below 1990 emissions levels by 2030 (SB 32) and has developed the 2017 Scoping Plan to demonstrate how the State will achieve the 2030 target and make substantial progress toward the 2050 goal of an 80 percent reduction in 1990 GHG emission levels set by EO S-3-05. In EO B-55-18, which identifies a new goal of carbon neutrality by 2045, the CARB has been tasked with including a pathway toward the EO B-55-18 carbon neutrality goal in the next Scoping Plan update.

While state and regional regulators of energy and transportation systems, along with the State's Cap and Trade program, are designed to be set at limits to achieve most of the reductions needed to hit the State's long-term targets, local governments can do their share toward meeting the State's targets by siting and approving projects that accommodate planned population growth and projects that are GHG-efficient. At this time, the CARB has not adopted a plan that establishes a pathway to achieving the State's long-term targets; therefore, these targets are not used as thresholds of significance in this analysis. Instead, GHG impacts are analyzed using a threshold based on the State's 2030 target, which evaluates whether the project would impede "substantial progress" toward meeting the reduction goals identified in SB 32, EO S-3-05, and EO B-55-18 because the data, science, and regulatory framework are not sufficient at this time to definitively determine whether the project would be consistent with the State's long-term 2045 and 2050 targets.

It is infeasible to meet the State's long-term targets (EOs S-3-05 and B-55-18) at this time because achieving these targets will depend on substantial technological innovation in GHG emission reduction measures and changes in legislation and regulations that will need to occur over the next 25 to 30 years as have occurred over the past 14 years to meet the 2020 target set by AB 32. Furthermore, the State has not yet comprehensively quantified its carbon sinks; therefore, it is unknown at this time what magnitude of emissions reductions are needed to achieve the carbon neutrality goal set in EO B-55-18. Therefore, it would be speculative to evaluate the project's emissions for consistency with the State's long-term 2045 and 2050 targets because of the scientific, legislative, and technological uncertainties. As a result, because SB 32 is considered an interim target toward meeting the 2045 and 2050 State goals, consistency with SB 32 is considered to be contributing substantial progress toward meeting the State's long-term 2045 and 2050 goals. As stated in EO B-55-18, avoiding interference with, and making substantial progress toward these long-term State targets is important as these targets have been set at levels that achieve California's share of international emissions reduction targets that will stabilize global climate change effects and avoid the adverse environmental consequences of climate change.

Because the BAAQMD bright-line threshold for 2020 was reduced by 40 percent to be consistent with the State's 2030 target (i.e., a 40 percent reduction in 1990 levels by 2030), the project would be consistent with the State's 2030 target if emissions are below this threshold. As discussed above, consistency with the SB 32 target represents substantial progress toward climate-stabilizing targets set forth by EOs S-3-05 and B-55-18.

Additionally, per 2017 BAAQMD CEQA guidelines, new stationary sources should be evaluated separately from project operation emissions associated with land use and are not considered "cumulatively considerable" from a land use perspective if the stationary sources comply with the 10,000 MT $CO_2e$ per year threshold.

**Operation**

As shown in Table 23, the project's total emissions are estimated to be about 36,285 MT $CO_2e$ per year. However, due to insufficient data on the existing structures and uses, this estimate does not deduct existing emissions from the data center and office buildings on the project site and is therefore a highly conservative estimate. The project's GHG emissions would exceed the 660 MT $CO_2e$ per year adjusted threshold of significance and would potentially conflict with SB 32 and EOs S-3-05 and B-55-18. As such, Mitigation Measure GHG-1 would be necessary to reduce impacts to less than significant.

The following discussion of the project's consistency with the State's long-term 2045 and 2050 goals under EOs S-3-05 and B-55-18 is provided for informational purposes only. Consistency with the 2045 and 2050 goals is not used as thresholds of significance to evaluate the project's GHG emissions in this IS-MND for the reasons stated above. GHG emissions generated by the proposed project would decline over the long-term due to statewide implementation of SB 100, which mandates that eligible renewable energy resources and zero-carbon resources supply 100 percent of all retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all state agencies by December 31, 2045. Approximately 98 percent (35,510 MT of $CO_2$e of a total 36,323 MT of $CO_2$e) of the project's estimated operational GHG emissions would result from direct electricity usage. In addition, approximately 1 percent (484 MT of $CO_2$e of a total 36,323 MT of $CO_2$e) would result from indirect electricity usage used to convey water and wastewater. Therefore, by 2045, the project's GHG emissions would decrease by up to 35,994 MT of $CO_2$e (35,510 + 484) to approximately 330 MT of $CO_2$e. Furthermore, the City has adopted a Zero Waste Strategic Plan (2008) in response to the City's Zero Waste Resolution (2007) to achieve zero waste by 2022. The project would be subject to the City's requirements and standards adopted in furtherance of this goal, which would reduce the project's GHG emissions related to solid waste. In addition, increasingly stringent fuel efficiency and GHG emissions standards for vehicles would result in fewer GHG emissions from mobile sources in 2045 and 2050. As a result, the estimate 180 MT of $CO_2$e generated by mobile sources would decrease by 2045 and again by 2050. The exact magnitude of the decrease would depend on whether additional vehicle standards are adopted in California by 2045 and 2050 in addition to those already in place. Nevertheless, the project would emit up to approximately 330 MT of $CO_2$e from project operations and approximately 9,489 MT of $CO_2$e from stationary sources (i.e., emergency generator testing) in 2045 and 2050, which would be potentially inconsistent with the State's goals of carbon neutrality by 2045 (EO B-55-18) and an 80 percent reduction in GHG emission levels by 2050 (EO S-3-05). However, it is not possible to definitively determine whether the project would be consistent because substantial technological innovation in GHG emission reduction measures and changes in legislation and regulations are likely to occur over the next 25 to 30 years as have occurred over the past 14 years to meet the target set by AB 32. Furthermore, the State has not yet comprehensively quantified its carbon sinks; therefore, it is unknown at this time what magnitude of emissions reductions are needed to achieve the carbon neutrality goal set in EO B-55-18.

***Mitigation Measures***

*GHG-1 Operational GHG Reductions*

Prior to issuance of any grading permits, the project applicant shall submit a GHG reduction plan meeting the requirements outlined below and, prior to ~~project operation~~ issuance of any certificate of occupancy (temporary or final), the project applicant shall implement the following mitigation measures to reduce GHG emissions associated with energy use at the proposed data center:

- Develop a GHG emissions reduction plan that shall (1) reduce emissions from project implementation, and (2) demonstrate to the Planning Building and Code Enforcement's Director or director's designee that GHG emissions resulting from project implementation

will be reduced by a sufficient amount for each site to achieve the 2030 standard of 660 MT of $CO_2e$/year.

- Since the project will be operational after December 31, 2020, it will be subject to 2030 GHG reduction targets. This target requires that the project has GHG emissions not exceeding 660 MT of $CO_2e$/year. The GHG emissions reduction plan ~~may~~ shall include~~, but would not be limited to,~~ a minimum of one or more of the following elements in order to achieve the 2030 standard of 660 MT of $CO_2e$/year:
  - Coordination with SJCE and the BAAQMD to identify and implement recommended GHG emissions reduction measures;
  - Purchase of 100 percent carbon-free electricity from SJCE through the TotalGreen program or through negotiation of an electricity contract;
  - Installation of solar power systems, fuel cells, battery storage systems, or other renewable electric generating systems that provide electricity to power on-site equipment and possibly provide excess electric power;
  - Construct on-site or fund off-site carbon sequestration projects (such as a forestry or wetlands projects for which inventory and reporting protocols have been adopted). If the project develops an off-site project, it must be registered with the Climate Action Reserve or otherwise be approved by the BAAQMD in order to be used to offset Project emissions;
  - Purchase of carbon credits to offset project annual emissions. Carbon offset credits must be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by the California Air Resources Board or BAAQMD. The preference for offset carbon credit purchases includes those that can be achieved as follows: 1) within the City of San José; 2) within the SFBAAB; 3) within the State of California; then 4) elsewhere in the United States. Provisions of evidence of payments, and funding of an escrow-type account or endowment fund would be overseen by the City.

**Significance after Mitigation**

Implementation of Mitigation Measure GHG-1 would reduce GHG emissions from the proposed project to 660 MT of $CO_2e$ per year, which would not exceed the BAAQMD adjusted 2030 threshold of 660 MT of $CO_2e$ per year. Therefore, with implementation of Mitigation Measure GHG-,1 impacts would be less than significant. The project's GHG emissions would not impede substantial progress toward meeting the State's 2030, 2045, and 2050 GHG reduction goals. As previously discussed, the project would be potentially inconsistent with the State's long-term targets for 2045 and 2050; however, it is not possible to make a definitive determination at this time, and consistency with the State's long-term targets is not used a threshold of significance for the purposes of this analysis.

**LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

The following changes are made to Section 4.9, *Hazards and Hazardous Materials*.

***Construction***

Due to previous industrial and agricultural uses and the historic presence of underground storage tanks on the project site, it is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. ~~Therefore, project construction could create a significant hazard to the public or the environment.~~ Project construction may include the temporary

transport, storage, and use of potentially hazardous materials including fuels, lubricating fluids, cleaners, or solvents. Due to the site's previous agricultural and industrial uses, contaminated soils may be present. ~~Thus, project construction may involve the removal of contaminated soil during grading or excavation which would result in the transport and disposal of hazardous materials as they are unearthed and removed from the site.~~

The project applicant's Phase II Quality Evaluation Report, prepared by Cornerstone Earth Group dated June 19, 2019, assessed the soil, soil vapor and groundwater quality. In that report, two soil samples were selected from each boring location and analyzed for total lead. Laboratory analyses of the samples did not detect lead above its residential screening level (i.e., the concentration below which there is not considered to be a risk to human health under conservatively high exposure parameters). Based on this data, the lead-impacted shallow soil previously identified appears to have been removed (Cornerstone Earth Group 2019).

In addition, the site was used for agricultural purposes for several decades. Soil sampling and laboratory tests were performed to evaluate the residual pesticide concentrations, if any, and potential health risks to construction workers and future occupants. Soil samples were collected from the upper 0.5 feet of native soil at eight borings. Based on the analytical testing, organochlorine pesticides and pesticide-related metals were not detectable in the soil samples above residential screening levels and/or natural background levels for metals. Based on this data, the residual pesticide concentrations in shallow soil would not pose a significant risk to human health (Cornerstone Earth Group 2019).

Based on exploratory borings advanced at the project site, up to 4 feet of fill material consisting of dark brown sandy lean clay with varying amount of gravel was observed in 8 to 15 boring locations. Based on the analytical results, concentrations of metals and other pollutants were not detected above laboratory reporting limits, natural/ambient concentration and/or their respective environmental screening criteria. Based on the limited data, the shallow fill would not pose a potential health risk to construction workers of future occupants (Cornerstone Earth Group 2019).

Laboratory tests of four soil vapor samples collected on the site detected several VOCs; however, none of the detected compounds exceeded their respective environmental screening criteria except for tetrachloroethylene (PCE). The source of the PCE-impacted soil vapor is not known but may be related to prior tenant activities. Soil vapor probes did not detect PCE above its laboratory reporting limit at three locations. However, the Phase II report recommended resampling the vapor probe at location EB-4 (located at the northeastern corner of the site, as shown on Figure 2 in the attached Phase II Report) and/or collecting additional soil vapor samples near EB-4 location to help confirm the extent of impact. If the sample results indicate soil vapor is present , vapor mitigation measures could be incorporated beneath the portion of the planned data center building where soil vapor impacts are present.

During demolition of the former spill containment trenches and/or drain piping conveyance trenches and surrounding slab areas, the Phase II report recommends an environmental professional be present to observe removal activities. The condition of the trenches should also be observed prior to demolition to assist in identifying potential mitigation pathways. Soil underlying the structures should be screened for volatile hydrocarbons using a portable gas chromatograph and soil samples collected where suspect impacted materials are identified. If elevated VOC concentrations are present in soil, the Phase II report recommends this material be

over-excavated for off-site disposal and post-excavation confirmation soil samples be collected and analyzed.

Furthermore, demolishing the existing building could result in upset and release of hazardous materials into the environment. Due to its age, the existing buildings, constructed between 1974 and 1979 may contain asbestos, Polychlorinated biphenyls (PCB), and/or lead-based paints (LBP). Because the buildings were constructed before the federal ban on PCBs, it is possible that they are present in light ballasts. Demolition could result in health hazard impacts to workers if not remediated prior to construction activities. However, demolition and construction would be required to comply with BAAQMD Regulation 11, Rule 2, which governs the proper handling and disposal of asbestos containing material for demolition, renovation, and manufacturing activities in the Bay Area. These activities would also need to comply with CalOSHA regulations regarding lead-based materials. The California Code of Regulations, Section 1532.1, requires testing, monitoring, containment, and disposal of lead-based materials such that exposure levels do not exceed CalOSHA standards. DTSC has classified PCBs as a hazardous waste when concentrations exceed 50 parts per million in non-liquids; consequently, the DTSC requires that materials containing those concentrations of PCBs be transported and disposed of as hazardous waste. Any light ballast removed would be evaluated for the presence of PCBs and managed appropriately pursuant to DTSC standards, which would be protective of safety during the construction phase. Compliance with BAAQMD, CalOSHA, and DTSC policies regarding asbestos containing materials (ACM), LBP, and PCBs, would reduce impacts to less than significant.

Project construction would require heavy construction equipment, the operation of which could result in a spill or accidental release of hazardous materials, including fuel, engine oil, engine coolant, and lubricants. As described above, the project was previously used for agricultural and industrial operations indicating potential for residual chemicals in the soil associated with the previous use. Therefore, ground-disturbing activities could expose construction workers to soil contaminated with agricultural and industrial chemicals above the environmental safety limits. Project construction would also include temporary transport, storage, and use of potentially hazardous materials including fuels, lubricating fluids, cleaners, solvents, contaminated groundwater or contaminated soils. The transport of any hazardous materials would be subject to federal, state, and local regulations, which would minimize risks associated with the transport of hazardous materials. Construction activities that involve hazardous materials would be required to transport such materials along roadways designated for that purpose in the County, thereby limiting risk of upset during transportation.

Nevertheless, due to existing soil conditions, the project has the potential to expose the public, construction workers and the environment to on-site hazardous materials due to past agricultural and industrial use and potential soil contamination. Therefore, Mitigation Measures HAZ-1 and HAZ-2 would be required to reduce potential impacts related to upset of hazardous materials.

***Mitigation Measures***

*HAZ-1 Soil Vapor Sampling*

- Prior to construction, ~~Prior to issuance of grading permits, shallow soil samples shall be taken in the near surface soil on the proposed project site and tested for organochlorine pesticides and pesticide-based metals, arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction~~

~~worker safety and commercial/industrial standard environmental screening levels.~~ the project applicant shall hire an environmental professional to resample the vapor probe at location EB-4 and/or collecting additional soil vapor samples near EB-4 location to help confirm the extent of impact.

- If the sample results indicate soil vapor is present, the environmental professional shall ensure vapor mitigation measures are incorporated beneath the portion of the planned data center building where soil vapor impacts are present.
    - Vapor mitigation measures may include, but are not limited to, the following: sealing openings, vapor barriers below the building, passive venting, sub-slab depressurization, or building overpressurization.
- The result of soil vapor sampling and potential vapor mitigation measures will be provided to the City's Supervising Environmental Planner and Municipal Environmental Compliance Officer for review.

~~If contaminated soils are found in concentrations above regulatory environmental screening levels for construction worker safety and/or commercial/industrial standards, a Site Management Plan (SMP), Removal Action Plan, or equivalent document as directed by the regulatory agency (i.e., SCCDEH or the DTSC) must be prepared by a qualified hazardous materials consultant.~~

~~*HAZ-2 Soil Management Plan*~~

~~Prior to the issuance of a demolition or grading permit, the applicant shall contact the regulatory agency (i.e., SCCDEH or DTSC) to discuss the proposed redevelopment project and perform any other necessary investigations and studies to address the residual contamination as deemed necessary by the SCCDEH.~~

~~The regulatory agency may require an SMP or similar document to manage the cleanup of contaminated soils. If applicable, an SMP shall be prepared by a qualified environmental professional prior to construction to reduce or eliminate exposure risk to human health and the Isooctane presence shall be noted in the soil management plan, along with provisions for proper handling and/or disposal of impacted groundwater, though no groundwater is anticipated to be encountered during construction. At a minimum, the SMP shall include the following:~~

- ~~Stockpile management including dust control, sampling, stormwater pollution prevention and the installation of best management practices (BMP)~~
- ~~Mitigation of soil vapors~~
- ~~Proper disposal procedures of contaminated materials~~
- ~~Monitoring, reporting, and regulatory oversight notifications~~
- ~~A health and safety plan for each contractor working at the site that addresses the safety and health hazards of each phase of site operations with the requirements and procedures for employee protection~~
- ~~The health and safety plan will also outline proper soil handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction.~~

~~The SMP shall detail procedures and protocols for management of soil containing environmental contaminants during site development activities. If applicable, cleanup and remediation activities on the site shall be conducted in accordance with the SMP prior to construction activities. All measures shall be printed on all construction documents, contracts, and project plans. The SMP shall be~~

~~reviewed and approved by the City's Supervising Environmental Planner and Environmental Services Department Compliance Officer prior to issuance of any grading or building permit.~~

*HAZ-2 Soil Monitoring and Screening*

- During construction, an environmental professional shall be present to observe removal activities. The condition of the trenches shall also be observed prior to demolition to assist in identifying potential mitigation pathways. Soil underlying the structures shall be screened for volatile hydrocarbons using a portable gas chromatograph and soil samples collected where suspect impacted materials are identified.
    - If elevated VOC concentrations are present in soil, the environmental professional shall ensure this material is over-excavated for off-site disposal and post-excavation confirmation soil samples are collected and analyzed.
- Results from the soil monitoring and screening will be provided to the City's Supervising Environmental Planner and Environmental Services Department Compliance Officer prior to issuance of building permit.

With implementation of Mitigation Measures HAZ-1 and HAZ-2 impacts would be less than significant.

**LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

Date: 4/1/2020

Deputy