

## MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**PROJECT NAME:** Clean Harbors San José Facility High Pile

**PROJECT FILE NUMBER:** CP19-033

**PROJECT DESCRIPTION:** Conditional Use Permit to establish a hazardous maintenance storage and transfer station within the existing bounds of the building. This will include the installation of a third level high pile storage racking for the storage of combustible, corrosive, and toxic liquids such as motor oils and solvents, increasing storage capacity to 240,240 gallons. The number of trailer loads delivered and shipped will increase per day by two, for a total of 32 trailer loads daily, but the locations of these deliveries and shipments would remain the same. Three new employees would be added, for a total of 13 employees. The project will also make exterior changes, including the repaving of the driveway and parking, replacement of the front fence, removal of one orchard tree, and planting of 5 new trees and landscaping along the front property line.

**PROJECT LOCATION:** The project is located on approximately 0.52 acres at 2305 Story Road.

**ASSESSORS PARCEL NO.:** 254-02-025

**COUNCIL DISTRICT:** 3

**APPLICANT CONTACT INFORMATION:** David Hurley, Strategic Project Manager, Clean Harbors Environmental Services, Inc., 42 Longwater Drive Box 9149, Norwell, Massachusetts 02061, (435) 901-3488

## FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

## MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- A. **AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a

significant impact on this resource, therefore no mitigation is required.

**C. AIR QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.

**D. BIOLOGICAL RESOURCES.**

**Impact BIO-1:** Project construction, including tree removals, that occur during the breeding season could result in a significant impact to nesting raptors and other protected migratory bird species

**MM BIO-1: Nesting Bird Survey.** Prior to the issuance of any tree removal, grading, building or demolition permits (whichever occurs first), the project applicant shall schedule all construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.

If construction activities cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no active nests shall be disturbed during construction activities. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the latter part of the breeding season (May 1st through August 31st inclusive). During this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist/biologist, in coordination with California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction free buffer zone to be established around the nest (typically 250 feet for raptors and 100 feet for other birds) to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any site disturbance, such as tree removal, or the issuance of any grading, building or demolition permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee.

**E. CULTURAL RESOURCES.**

**Impact CUL-1:** The project could cause a significant impact to archeological resources due to an increased potential for buried cultural deposits.

**CUL-1.1: Cultural Resource Monitoring.** A qualified archaeologist shall conduct spot-check (part-time) monitoring for buried cultural resources during trenching for the stormwater drainage and grading for the bio-retention swales in the northwest corner of the Project site.

**CUL-1.2: On-Site Monitoring Plan.** Prior to the issuance of any grading permits, the applicant

shall retain a qualified archeologist to prepare and submit an On-Site Monitoring Plan to the City of San José's Director of Planning, Building and Code Enforcement or Director's designee. The Plan will reflect permit-level detail pertaining to depths and locations of all ground disturbing activities related to trenching for the stormwater drainage and grading for the bio-retention swales in the northwest corner of the Project site. The Plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations, if necessary.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

**CUL-1.3: *Limited Monitoring.*** During trenching for the stormwater drainage and grading for the bio-retention swales in the northwest corner of the Project site, the applicant shall retain a qualified archaeologist to conduct limited monitoring of the ground disturbance, per the approved On-Site Monitoring Plan. The archaeologist shall have the authority to temporarily halt construction in the event that potentially significant resources are encountered. The project applicant shall notify the Director of Planning, Building and Code Enforcement or Director's designee and the City of San José's Historic Preservation Officer of any finds during trenching or grading. Any historic or prehistoric material identified during trenching or grading shall be evaluated for eligibility for listing in the California Register of Historical Resources as determined by the California Office of Historic Preservation.

**CUL-1.4: *Evaluation and Documentation.*** If the evaluation determines that the material is eligible for listing in the California Register of Historical Resources, then data recovery will be necessary. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation.

The techniques used for data recovery shall follow the protocols identified in the approved On-Site Monitoring Plan. Data recovery shall include excavation and exposure of features, field documentation, artifact analysis, and recordation. All documentation and recordation shall be submitted to the Northwest Informative center (NWIC), and/or equivalent. A copy of the documentation shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee

- F. ENERGY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- G. GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.

- H. GREENHOUSE GAS EMISSIONS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- I. HAZARDS AND HAZARDOUS MATERIALS.** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- J. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- K. LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- L. MINERAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- M. NOISE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- N. POPULATION AND HOUSING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- O. PUBLIC SERVICES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- P. RECREATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- Q. TRANSPORTATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- R. TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- S. UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- T. WILDFIRE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- U. MANDATORY FINDINGS OF SIGNIFICANCE.**

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

**PUBLIC REVIEW PERIOD**

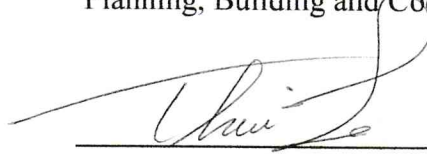
Before 5:00 p.m. on **Monday November 30, 2020** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

11/04/2020

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Date



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Deputy

Bethelhem Telahun  
Environmental Project Manager

**Circulation period: November 9, 2020 to November 30, 2020**