

PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA

File No. and Project Name/Description:

File No. PP11-054. San Jose/Santa Clara Water Pollution Control Plant Nortech / Zanker Service Lateral project to extend approximately 5,400 linear feet of 12-inch ductile iron pipe (DIP) potable water pipeline to the new Advanced Recycled Water Treatment Facility (ARWTF) currently under construction on WPCP lands in Alviso. The project is located in Council District: 4

California State Law requires the City of San José to conduct environmental review for all pending projects. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. Based on an initial study, the Director of Planning, Building & Code Enforcement has concluded that the project described above will not have a significant effect on the environment. The project location does not contain a listed toxic site. Pursuant to the conclusions of the Initial Study, the Director of Planning, Building & Code Enforcement has prepared a draft Mitigated Negative Declaration for this project.

The purpose of this notice is inform the public of the opportunity for public review and comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **January 6, 2012**, and ends on **February 6, 2012**. A public hearing to adopt the Mitigated Negative Declaration has not been scheduled as of the date of this notice. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance.

The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>

For additional information, please contact Janis Moore by e-mail at janis.moore@sanjoseca.gov.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Deputy

Circulated on: January 6, 2012

MITIGATED NEGATIVE DECLARATION

PROJECT FILE NO.: PP11-054

PROJECT DESCRIPTION: San Jose/Santa Clara Water Pollution Control Plant Nortech/Zanker Service Lateral project to extend approximately 5,400 linear feet of 12-inch ductile iron pipe (DIP) potable water pipeline to the new Advanced Recycled Water Treatment Facility (ARWTF) currently under construction on WPCP lands in Alviso.

PROJECT LOCATION AND ASSESSOR'S PARCEL NUMBER(s): The project site is located north of State Route 237 and south of the San Jose/Santa Clara Water Pollution Control Plant (Plant) on Los Esteros Road. The new service lateral would connect to the existing potable service lateral on Nortech Parkway, traverse easterly approximately 4,295 linear feet across the Plant buffer land and redirect northerly for approximately 1,100 linear feet towards the South Bay Advanced Recycled Water Treatment Facility (ARWTF) (currently under construction)(APNs: Portions of 015-030-061, 015-030-098, 015-31-028, 015-031-061, 015-031-063)

EXISTING GENERAL PLAN DESIGNATION: Public/Quasi-Public

EXISTING ZONING: West of Zanker Road: *Single-Family Residential (R-1-8), Multi-Family Residential (R-M), and Agricultural (A).* East of Zanker Road: *Light Industrial (LI)*

EXISTING LAND USE: Vacant WPCP buffer land and public right-of-way

SURROUNDING LAND USES / GENERAL PLAN / ZONING:

North & South: Land Use: Vacant WPCP buffer land / GP: Public/Quasi-Public / Zoning: R-1-8 Single-Family Residential, R-M Multi-Family Residential, A Agricultural, and LI Light Industrial

East: Land Use: ARWTF (under construction) and vacant WPCP buffer land / GP: Public/Quasi-Public / Zoning: R-1-8 Single-Family Residential, R-M Multi-Family Residential, A Agricultural, and LI Light Industrial

West: Land Use: Industrial park and water tank / GP: Public/Quasi-Public, Combined Industrial Commercial / Zoning: A(PD) (Planned Development for industrial park uses), R-1-8 Single-Family Residential, R-M Multi-Family Residential, and A Agricultural

PROJECT APPLICANT'S NAME AND ADDRESS: City of San Jose, Department of Environmental Services, Water Resources Division, San Jose Muni Water System, Attn: Darwin Lasat, 3024 Tuers Road, San Jose, CA 95121

LEAD AGENCY CONTACT INFORMATION: City of San Jose, Department of Planning, Building and Code Enforcement, Environmental Review Section, Attn: Janis Moore, 200 E. Santa Clara Street, Tower, 3rd Floor, San Jose, CA 95113

<i>Issues</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant With Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>	<i>Information Sources</i>
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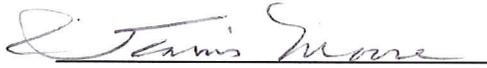
DETERMINATION

On the basis of this initial study:

<input type="checkbox"/>	I find the proposed project could not have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
<input checked="" type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the project proponent has agreed to revise the project to avoid any significant effect. A MITIGATED NEGATIVE DECLARATION will be prepared.
<input type="checkbox"/>	I find the proposed project could have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT(EIR) is required.
<input type="checkbox"/>	I find the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated impact” on the environment, but at least one effect has been (1) adequately analyzed in a previous document pursuant to applicable legal standards, and (2) addressed by mitigation measures based on the previous analysis as described in the attached sheets/initial study. An EIR is required that analyzes only the effects that were not adequately addressed in a previous document.
<input type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, no further environmental analysis is required because all potentially significant effects have been (1) adequately analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (2) avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION , including revisions or mitigation measures that are included in the project, and further analysis is not required.

January 3, 2012

 Date



 Signature

Name of Preparer: Janis Moore, Planner II

FINDING:

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

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

- I. AESTHETICS.** The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.
- II. AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.
- III. AIR QUALITY.** The project will not have a significant air quality impact, therefore no mitigation is required.

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IV. BIOLOGICAL RESOURCES. The project will not have a significant impact on biological resources, with the incorporation of the mitigation measures listed below.

A. Construction activities from the proposed project could impact wetland habitat identified near the project area. In order to avoid this impact, the following best management practices (BMPs) mitigation measures will be implemented as part of the project to avoid direct and indirect impacts to the wetland habitats identified near the project area. Therefore, impacts to these wetlands will be avoided, and any disturbance of associated species will be a less than significant impact.

The project will include the following best management practices (BMPs) to ensure construction activities avoid and protect nearby biological habitats.

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
2. All work will be completed during the dry season (April 15th to October 15th, with an extension to October 31st if it does not rain; after October 15th, work will cease for the season no less than 2 days prior to a forecast of rain in San Jose);
3. before work begins, the limits of wetlands along the side facing construction activities will be flagged by a qualified wetlands ecologist, and “environmentally sensitive area” fencing and silt fencing will be installed between these wetland limits and the construction area;
4. no vehicles or equipment will be operated in the wetlands;
5. no sidecast material will be placed in the wetlands; and
6. the preconstruction topography within the work area will be restored.

B. Construction activities from the proposed project could result in significant impacts to burrowing owls. Implementation of the following mitigation measures will reduce burrowing owl impacts to a less than significant level.

1. *Pre-construction Surveys.* Surveys for burrowing owls shall be completed by a qualified ornithologist in potential habitat in conformance with the CDFG protocol prior to the start of any ground-disturbing construction activity. These surveys shall be initiated no more than 30 days prior to the start of construction, and the final site visit shall take place no more than 2 days prior to the start of construction. If no burrowing owls are located during these surveys, MM BIO-2.2 and 2.3 would not be required. If these surveys detect burrowing owls on or within 250 feet of the project area, then the following mitigation measures (MM BIO-2.2 and 2.3) shall be implemented. The project applicant shall submit a report indicating the results of the survey to the satisfaction of the City’s Director of Planning, Building and Code Enforcement prior to the start of ground disturbing activities.
2. *Buffer Zones.* If burrowing owls are present during the breeding season (generally February 1 to August 31), a 250-foot buffer, within which no project-related activity will be permissible, shall be maintained between construction activities and occupied burrows. Owls present at burrows in the project area after February 1st will be assumed to be nesting on or adjacent to the project area unless evidence indicates otherwise. This protected area shall remain in effect until August 31st or, based upon monitoring evidence, until the young owls are foraging independently. If burrowing owls are present adjacent to, but not within, the project’s disturbance footprint during the nonbreeding season, a buffer of 150 feet will be provided. A smaller buffer during the nonbreeding season (September 1st to January 31st) may be permitted as long as it deemed

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acceptable by a qualified ornithologist and the owl’s burrow is located far enough from the construction area that the burrow occupied by the owl is not in danger of being destroyed or caved-in. The project applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City’s Director of Planning, Building and Code Enforcement prior to the start of ground disturbing activities.

3. *Relocation.* If ground-disturbing activities will occur close enough to an active burrow that the burrow is at risk of being destroyed, any owl(s) occupying the burrow shall be relocated during the non-breeding season, in consultation with the CDFG and the U.S. Wildlife Service, to avoid impacts to the bird(s). No burrowing owls shall be evicted from burrows during the nesting season (February 1st through August 31st) unless evidence indicates that nesting is not actively occurring (*e.g.*, because the owls have not yet begun nesting early in the season, or because young have already fledged late in the season). As noted in MM BIO-1.2 above, owls will not be relocated during the nonbreeding season unless the occupied burrow is at imminent risk of being destroyed. The project applicant shall submit a report summarizing the consultation process with CDFG to the satisfaction of the City’s Director of Planning, Building and Code Enforcement prior to the start of ground disturbing activities.

C. Construction activities from the proposed project could result in significant impacts to federal and state protected bird species. The project proposes to implement the following mitigation measures to reduce impacts to nesting birds and raptors to a less than significant level.

1. *Avoidance.* Avoid nesting-season construction. Construction should be scheduled (September 1st through January 31st) to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors, in the project area extends from February 1st through August 31st.
2. *Pre-construction/Pre-disturbance Surveys.* If it is not possible to schedule construction between September 1st and January 31st, then pre-construction surveys for nesting birds should be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey should be completed no more than 7 days prior to the initiation of construction activities during the early part of the breeding season (February through May) and no more than 14 days prior to the initiation of these activities during the late part of the breeding season (June through August). During this survey, the ornithologist will inspect all potential nesting habitats in the project area for nests. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist will determine the extent of a construction-free buffer zone to be established around the nest (typically 250 feet for raptors and 50-100 feet for other species), to ensure that no nests of species protected by the MBTA or California Department of Fish and Game will be disturbed during project implementation.

The project applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City’s Director of Planning, Building and Code Enforcement prior to the start of ground disturbing activities.

V. **CULTURAL RESOURCES.** The project will not have a significant impact on cultural resources, therefore no mitigation is required.

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VI. GEOLOGY AND SOILS. The project will not have a significant impact due to geology and soils, therefore no mitigation is required.

VII. GREENHOUSE GAS EMISSIONS. The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.

VIII. HAZARDS AND HAZARDOUS MATERIALS. The project will not have a significant hazards or hazardous materials impact, with the incorporation of the mitigation measures listed below.

A. Construction of the proposed project could result in the exposure of construction workers to potentially contaminated surface soils due to the elevated concentrations of arsenic. To protect workers from the elevated concentrations of arsenic in these soils, health and safety measures will be implemented to protect workers from exposure during construction. The project would include the following mitigation measures to reduce the risk of hazard to human beings or the environment through the routine transport, use, or disposal of hazardous materials:

1. *Site Management Plan.* Health and safety measures in the form of a Health and Safety Plan will be implemented to protect workers from exposure to contaminated surface soils during construction. Under OSHA requirements, workers will receive two-hours of health and safety awareness training¹ and personal protection equipment will be worn by workers (e.g. tyvek suit, rubber boots, decon, etc.), and a washing facility will be provided on site. Upper soils will be stockpiled separately and covered during service lateral installation, then put back in the trench to reduce exposure. The project applicant shall submit the Health and Safety Plan and it shall be prepared to the satisfaction of the City’s Director of Planning, Building and Code Enforcement prior to the start of ground disturbing activities.

B. Lead was detected at concentrations that exceed hazardous waste thresholds. This is not a health and safety issue unless the soils are off-hauled for disposal at a landfill, which this project does not propose. All such soils will be backfilled on-site. Construction of the proposed project could result in the disposal of hazardous waste at a landfill due to the elevated concentrations of lead. The project would include the following mitigation measures during construction to reduce the risk of hazard to human beings or the environment through the routine transport, use, or disposal of hazardous materials:

1. All excavated lead-containing soils shall be stockpiled separately and covered during construction. The soils shall then be backfilled into the trench to reduce the potential for disposal of hazardous waste at a landfill. As mentioned previously, it is not anticipated that any soils will leave the site.

IX. HYDROLOGY AND WATER QUALITY. The project will not have a significant hydrology or water quality impact, therefore no mitigation is required.

¹ If the workers have already completed 40-hours of hazardous worker training, then they would not need to do the 2 hour training.

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- X. **LAND USE AND PLANNING.** The project will not have a significant land use impact, therefore no mitigation is required.
- XI. **MINERAL RESOURCES.** The project will not have a significant impact on mineral resources, therefore no mitigation is required.
- XII. **NOISE.** The project will not have a significant noise impact, therefore no mitigation is required.
- XIII. **POPULATION AND HOUSING.** The project will not have a significant population or housing impact, therefore no mitigation is required.
- XIV. **PUBLIC SERVICES.** The project will not have a significant impact on public services, therefore no mitigation is required.
- XV. **RECREATION.** The project will not have a significant impact on recreation, therefore no mitigation is required.
- XVI. **TRANSPORTATION / TRAFFIC.** The project will not have a significant traffic impact, therefore no mitigation is required.
- XVII. **UTILITIES AND SERVICE SYSTEMS.** The project will not have a significant impact on utilities or service systems, therefore no mitigation is required.

MANDATORY FINDINGS OF SIGNIFICANCE. The proposed project will not degrade the quality of the environment, reduce habitat for plant or animal species, or eliminate examples of periods of California history. The proposed project would not make a cumulatively considerable contribution towards a significant cumulative impact, achieve short-term goals to the disadvantage of long-term goals or cause adverse effects on human beings.

As addressed in the Initial Study prepared for the proposed project, the impacts of the project would be temporary in nature, only occurring during construction activities. No impacts are expected to occur upon completion of the project construction. Given that construction of the proposed project would not overlap with development of the buffer lands under the future Plant Master Plan, no cumulative impacts would be expected to result from implementation of the project.

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PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **February 6, 2012**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures 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.

Joseph Horwedel, Director
 Planning, Building and Code Enforcement

Circulation period: January 6, 2012 to February 6, 2012


 Deputy