

# County of Santa Clara

Roads and Airports Department

101 Skyport Drive  
San Jose, California 95110-1302  
(408) 573-2400



July 20, 2012

Ms. Janice Lee  
Staff Engineer  
City of San Jose  
PBCE – Planning Department  
200 E. Santa Clara Street, 3<sup>rd</sup> Floor  
San Jose, California 95113  
Attn: John Davidson

Subject: Public Notice Intent to Adopt a Mitigated Negative Declaration for the Sanitary Sewer Line Improvements for the Almaden Expressway, Coleman Road, and Husted-Richland Lines.

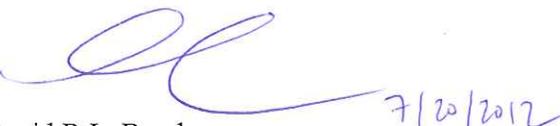
Dear Ms. Lee:

We have received and reviewed your Notice of Intent of a Mitigated Negative Declaration (MND) for the above referenced project, and the following are our comments:

1. The Draft (MND) should analyze any traffic impact including construction impact and mitigation on Almaden Expressway.
2. Any lane closures on Almaden Expressway during the construction window will only be allowed between 9:00am and 3:00pm or night/weekend.

Thank you for the opportunity to review and comment on Mitigated Negative Declaration. If you have any questions, please call me at (408) 573-2450.

Sincerely,

  
David R.L. Boyd  
Staff Engineer

cc: KV, MLG, WKY, MA, Dawn Cameron

August 9, 2012

David R.L. Boyd  
County of Santa Clara  
Roads and Airports Department  
101 Skyport Drive  
San Jose, CA 95110

**RE: *Sanitary Sewer Line Improvements for Alamden Expressway, Coleman Avenue, and Husted-Richland Lines, SCH No. 2012062043***

Dear Mr. Boyd:

Thank you for your comments on the IS/MND for the above-referenced project. Responses to your comments are provided below:

1. The IS/MND evaluated short-term traffic impacts during construction on pages 51-52, and concluded that short-term, localized disruption to property access and circulation during construction would not result in significant transportation impacts.
2. Noted.

Sincerely,



John Davidson  
City of San Jose Planning Division  
Environmental Review Section  
john.davidson@sanjoseca.gov  
535-7895



**State Water Resources Control Board**

**JUL 13 2012**

Mr. John Davidson  
City of San Jose  
200 East Santa Clara Street, Tower 3  
San Jose, CA 95113-1905

Dear Mr. Davidson:

INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION (IS/MND) FOR THE CITY OF SAN JOSE (CITY); SANITARY SEWER LINE IMPROVEMENTS FOR THE ALMADEN EXPRESSWAY, COLEMAN ROAD, AND HUSTED-RICHLAND LINES, FILE NO. PP11-091 (PROJECT); SANTA CLARA COUNTY; STATE CLEARINGHOUSE NO. 2012062043

We understand the City may be pursuing financing for this Project. As a funding agency and a State agency with jurisdiction by law to preserve, enhance, and restore the quality of California's water resources, the State Water Resources Control Board (State Water Board) is providing the following information and comments for the environmental document prepared for the Project.

Please provide us with the following documents applicable to the proposed Project following the District' California Environmental Quality Act (CEQA) process: (1) 1 copy of the draft and final IS/MND, (2) the resolution adopting the IS/MND and a Mitigation Monitoring and Reporting Program (MMRP), and making California Environmental Quality Act (CEQA) findings, (3) all comments received during the review period and the City's response to those comments, (4) the adopted MMRP, and (5) the Notice of Determination filed with the Santa Clara County Clerk and the Governor's Office of Planning and Research, State Clearinghouse. In addition, we would appreciate notices of any hearings or meetings held regarding environmental review of any projects to be funded by the State Water Board.

The State Water Board, Division of Financial Assistance, is responsible for administering the CWSRF Program. The primary purpose for the CWSRF Program is to implement the Clean Water Act and various state laws by providing financial assistance for wastewater treatment facilities necessary to prevent water pollution, recycle water, correct nonpoint source and storm drainage pollution problems, and provide for estuary enhancement, and thereby protect and promote health, safety and welfare of the inhabitants of the state. The CWSRF Program provides low-interest funding equal to one-half the most recent State General Obligation Bond Rates with a 20-year term. Applications are accepted and processed continuously. Please refer to the State Water Board's CWSRF website at [www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/index.shtml).

The CWSRF Program is partially funded by the United States Environmental Protection Agency and requires additional "CEQA-Plus" environmental documentation and review. Four enclosures are included that further explain the CWSRF Program environmental review process and the additional federal requirements. The State Water Board is required to consult directly

with agencies responsible for implementing federal environmental laws and regulations. Any environmental issues raised by federal agencies or their representatives will need to be resolved prior to State Water Board approval of a CWSRF funding commitment for the proposed Project. For further information on the CWSRF Program, please contact Mr. Ahmad Kashkoli, at (916) 341-5855.

It is important to note that prior to a CWSRF funding commitment, projects are subject to provisions of the Federal Endangered Species Act (ESA), and must obtain Section 7 clearance from the United States Fish and Wildlife Service (USFWS), and/or National Marine Fisheries Service (NMFS) for any potential effects to special status species. Please be advised that the State Water Board will consult with USFWS, and/or NMFS regarding all federal special status species the Project has the potential to impact if the Project is to be funded under the CWSRF Program. The City will need to identify whether the Project will involve any direct effects from construction activities or indirect effects, such as growth inducement, that may affect federally listed threatened, endangered, or candidate species that are known, or have a potential to occur on-site, in the surrounding areas, or in the service area, and to identify applicable conservation measures to reduce such effects.

In addition, CWSRF projects must comply with federal laws pertaining to cultural resources, specifically Section 106 of the National Historic Preservation Act. The State Water Board has responsibility for ensuring compliance with Section 106 and the State Water Board must consult directly with the California State Historic Preservation Officer (SHPO). SHPO consultation is initiated when sufficient information is provided by the CWSRF applicant. The City must retain a consultant that meets the Secretary of the Interior's Professional Qualifications Standards ([www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm)) to prepare a Section 106 compliance report.

Note that the City will need to identify the Area of Potential Effects (APE), including construction and staging areas and the depth of any excavation. The APE is three-dimensional and includes all areas that may be affected by the Project. The APE includes the surface area and extends below ground to the depth of any Project excavations. The records search request should be made for an area larger than the APE. The appropriate area varies for different projects but should be drawn large enough to provide information on what types of sites may exist in the vicinity.

Other federal requirements pertinent to the Project under the CWSRF Program include the following:

- A. Compliance with the federal Clean Air Act: (a) Provide air quality studies that may have been done for the Project; and (b) if the Project is in a nonattainment area or attainment area subject to a maintenance plan; (i) provide a summary of the estimated emissions (in tons per year) that are expected from both the construction and operation of the Project for each federal criteria pollutant in a nonattainment or maintenance area, and indicate if the nonattainment designation is moderate, serious, or severe (if applicable); (ii) if emissions are above the federal de minimis levels, but the Project is sized to meet only the needs of current population projections that are used in the approved State Implementation Plan for air quality, quantitatively indicate how the proposed capacity increase was calculated using population projections.

- B. Protection of Wetlands: Identify any portion of the proposed Project area that should be evaluated for wetlands or United States waters delineation by the United States Army Corps of Engineers (USACE), or require a permit from the USACE, and identify the status of coordination with the USACE.
- C. Compliance with the Farmland Protection Policy Act: Identify whether the Project will result in the conversion of farmland. State the status of farmland (Prime, Unique, or Local Statewide Importance) in the Project area and determine if this area is under a Williamson Act Contract.
- D. Compliance with the Migratory Bird Treaty Act: List any birds protected under this Act that may be impacted by the Project and identify conservation measures to minimize impacts.
- E. Compliance with the Flood Plain Management Act: Identify whether or not the Project is in a Flood Management Zone and include a copy of the Federal Emergency Management Agency flood zone maps for the area.
- F. Compliance with the Wild and Scenic Rivers Act: Identify whether or not any Wild and Scenic Rivers would be potentially impacted by the Project and include conservation measures to minimize such impacts.

Following are specific comments on the City's IS/MND:

1. Please attach a copy of the Cultural Resources Study addressing the federal requirements pertaining to cultural resources, specifically Section 106 of the National Historic Preservation Act.
2. Mitigation Measure CR-1 states that the project proponent shall conduct a subsurface investigation to determine the potential for buried archaeological resources. The subsurface investigation and preparation of a Section 106 compliance report shall be performed by a qualified archaeologist as indicated above. Please include detailed construction plans and map locations of geoprobe sampling in addition to the report of the geoprobe program and findings, and other archaeological reports to be submitted to the City.
3. A current records search (less than a year old) from the appropriate Information Center is required. The records search shall include maps that show all recorded sites and surveys in relation to the three dimensional APE. A topographic map depicting contours and streams with the recorded sites and surveys in relation to the APE is very helpful.
4. Native American consultation initiated early in the Project, and a search of the Sacred Land Files at the Native American Heritage Commission (NAHC) is required and may help identify culturally sensitive areas. Please include documentation of contact with NAHC, Native Americans and other interested parties, along with a phone-log of attempted follow-up contact.

5. Mitigation for culturally sensitive areas shall include a discovery and treatment plan in the event of discovery of unanticipated archaeological discoveries
6. Please include a Federal Emergency Management Agency floodplain map of the Project area.
7. The Impact checklist and following Explanations do not agree in the following areas. Under the Air Quality section of the Initial Study, environmental impact 3.a) and 3.c) are indicated as 'No Impact' on the checklist, yet the following explanation lists them as 'Less-than-Significant Impacts'. Likewise with environmental impact 8.a) under the Hydrology and Water Quality section. Please make corrections for consistency.
8. Please send a copy of the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) when it is available.
9. Page 24 under the Air Quality section, states that "Construction contractors installing the proposed pipelines have the option of working with the BAAQMD to apply for cash incentives for equipment upgrades, including the use of alternative fuels." Clarify if the contractors installing the pipelines *will* employ upgraded equipment and use renewable alternative fuels and whether the Air Quality Modeling Results in Appendix B is based on contractors using upgraded equipment and renewable alternative fuels.
10. Mitigation measures were identified in the IS/MND to reduce environmental impacts to a less than significant level. In accordance with CEQA Guidelines, Section 15074, please prepare and adopt a Mitigation Monitoring and Reporting Program (MMRP) to report and/or monitor on those identified mitigation measures, and include the MMRP in the final IS/MND.

Thank you for the opportunity to review the City's IS/MND. If you have any questions or concerns, please feel free to contact me at (916) 341-6983 or by email at [SStewart@waterboards.ca.gov](mailto:SStewart@waterboards.ca.gov), or contact Ms. Jessica Collado at (916) 341-7833, or by email at [JCollado@waterboards.ca.gov](mailto:JCollado@waterboards.ca.gov).

Sincerely,



Susan Stewart  
Environmental Scientist  
Division of Financial Assistance

Enclosures (4)

1. SRF & CEQA-Plus
2. Quick Reference Guide to CEQA Requirements for State Revolving Fund Loans
3. Instructions and Guidance for "Environmental Compliance Information"
4. Basic Criteria for Cultural Resources Reports

cc: State Clearinghouse  
(Re: SCH# 2012062043)  
P. O. Box 3044  
Sacramento, CA 95812-3044



CLEAN WATER STATE REVOLVING FUND PROGRAM  
INSTRUCTIONS AND GUIDANCE FOR  
"ENVIRONMENTAL COMPLIANCE INFORMATION"

Introduction:

The State Water Resources Control Board (State Water Board) uses the California Environmental Quality Act (CEQA) review process and compliance with federal environmental laws and regulations to satisfy the environmental requirements of the Clean Water State Revolving Fund (CWSRF) Program Operating Agreement between the United States Environmental Protection Agency (USEPA) and the State Water Board. The CWSRF Program is partially funded by a capitalization grant from the USEPA. The issuance of funds from the CWSRF Program is equivalent to a federal action, and thus, compliance with federal environmental laws and regulations is required for projects being funded under the CWSRF Program.

All CWSRF Program applicants must submit adequate and complete environmental documentation to the State Water Board. Following submittal of an applicant's environmental documents, the State Water Board will review the documents to determine if the information is sufficient to document compliance with the CWSRF Program environmental requirements, including making a determination if consultation with federal authorities is required, and may request additional environmental information, when needed. The State Water Board encourages all applicants to initiate early consultation, so that the State Water Board can better streamline the environmental review process.

CEQA Information:

All projects coming to the State Water Board for funding are considered "projects" under CEQA because of the State Water Board's discretionary decision to approve funding.

Detailed information, including CEQA statutes and guidelines can be found online at the California Natural Resources Agency website at <http://ceres.ca.gov/ceqa>. A CEQA Process Flowchart that shows interaction points between lead and responsible agencies can be found at [http://ceres.ca.gov/topic/env\\_law/ceqa/flowchart/index.html](http://ceres.ca.gov/topic/env_law/ceqa/flowchart/index.html). In addition, State Water Board environmental staff is available to answer questions about the CEQA process, as well as the CWSRF Program environmental requirements. Please contact your assigned Project Manager at the State Water Board, regarding contact information for the appropriate environmental staff.

CEQA requires full disclosure of all aspects of the project, including impacts and mitigation measures that are not only regulated by state agencies, but also by federal agencies. Early consultation with state and federal agencies in the CEQA process will assist in minimizing changes to the project when funding is being requested from the State Water Board.

The types of CEQA documents that may apply to an applicant's project include one or a combination of the following: 1) Notice of Exemption (NOE); 2) Initial Study and Negative Declaration (ND); 3) Initial Study and Mitigated Negative Declaration (MND) with a Mitigation Monitoring and Reporting Program (MMRP); 4) Environmental Impact Report (EIR) with an MMRP; and/or 5) Addendum, Supplemental and Subsequent ND, MND or EIR. The applicant must determine the appropriate document for its project and submit the supporting information listed under the applicable section of the Environmental Package Checklist for Applicant (Attachment 1), along with a completed copy of the Evaluation Form for Environmental Review and Federal Coordination (Attachment 2). Please submit two copies of all CEQA documents.

The applicant must ensure the CEQA document is specific to the project for which funding is being requested. Program or Master Plan EIRs may not be suitable for satisfying the State Water Board environmental requirements if these documents are not project-specific. When an applicant uses an Addendum, Supplemental or Subsequent CEQA document for a project, the associated Program or Master Plan EIR must also be submitted, especially if the Addendum, Supplemental or Subsequent CEQA document includes references to pertinent environmental and mitigation information contained in the Program or Master Plan EIR.

If the applicant is using a CEQA document that is older than five years, the applicant must re-evaluate environmental and project conditions, and develop and submit an updated environmental document (such as an Addendum, Supplemental or Subsequent CEQA document) based on the results of that re-evaluation. The updated environmental document must be circulated through the State Clearinghouse for public review. The applicant must adopt the final updated environmental document, including any new identified measures, make CEQA findings, and file a Notice of Determination (NOD) with the local county clerk(s) and the Governor's Office of Planning and Research, State Clearinghouse (State Clearinghouse).

Each applicant, if it is a public agency, is responsible for approving the CEQA documents it uses regardless of whether or not it is a lead agency under CEQA. Non-profit organizations shall only be responsible for approving and ensuring implementation of the applicable project mitigation measures identified in the MMRP. All public agencies applying for CWSRF Program funding shall file either an NOE or an NOD with the State Clearinghouse and the local county clerk(s). Date stamped copies of those notices must be submitted with all the applicable environmental documents.

If the CEQA document was jointly prepared by a federal public governmental agency to satisfy the National Environmental Policy Act (NEPA) requirements, then the applicant must submit the corresponding NEPA documents, including a Finding of No Significant Impact, or a Record of Decision completed by the federal NEPA lead agency.

#### Federal Information:

In addition to CEQA compliance, the State Water Board is required to document environmental compliance with federal environmental laws and regulations, including:

#### 1. Federal Endangered Species Act (ESA), Section 7:

The United States Department of the Interior, Fish and Wildlife Service (USFWS) and the United States Department of Commerce National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) must be consulted for any project that will have the potential to adversely impact a federal special-status species. The USEPA delegated the State Water Board to act as the non-federal lead for initiating informal Section 7 ESA consultation with the USFWS. The State Water Board will coordinate with the USEPA for projects requiring formal Section 7 ESA consultation with the USFWS and projects that will impact federal special-status fish species under the NMFS jurisdiction. The USFWS and NMFS must provide written concurrence prior to a CWSRF financing agreement. USFWS and NMFS comments may include conservation measures, for which the applicant's CWSRF financing agreement will be conditioned to ensure compliance.

For further information on the federal ESA law, regulation, policy, and notices, go to <http://www.fws.gov/endangered/policy/index.html> and <http://www.nmfs.noaa.gov/pr/laws/esa/>. Note that compliance with both the state and federal ESAs is required of projects having the potential to impact state and federal special-status species. Although overlap exists between the state and federal ESAs, there might be additional or more restrictive state requirements. For further information on the state ESA, refer to the California Department of Fish and Game website at <http://www.dfg.ca.gov/habcon/cesa/>.

2. Magnuson-Stevens Fishery Conservation and Management Act, Essential Fish Habitat (EFH):

The Magnuson-Stevens Fishery Conservation and Management Act, as amended, is designed to manage and conserve national fishery resources. EFH consultations are only required for actions that may adversely effect EFH. The applicant needs to determine whether the proposed project may adversely affect EFH. NMFS is responsible for publishing maps and other information on the locations of designated EFH, and can provide information on ways to promote conservation of EFHs to facilitate this assessment. If a project may adversely affect a designated EFH, the applicant must complete an EFH consultation.

The State Water Board will coordinate with the USEPA to request an EFH consultation from the NMFS. NMFS is required to respond informally or in writing. NMFS comments may include conservation measures, for which the applicant's CWSRF financing agreement will be conditioned to ensure compliance. For more information, see the brochure at [http://www.nmfs.noaa.gov/sfa/reg\\_svcs/Council%20stuff/council%20orientation/2007/2007TrainingCD/TabT-EFH/EFH\\_CH\\_Handout\\_Final\\_3107.pdf](http://www.nmfs.noaa.gov/sfa/reg_svcs/Council%20stuff/council%20orientation/2007/2007TrainingCD/TabT-EFH/EFH_CH_Handout_Final_3107.pdf).

3. National Historic Preservation Act (NHPA), Section 106:

The NHPA focuses on federal compliance. Section 106 requires Federal agencies to take into account the effects of their undertakings on historic properties. The Section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. The Section 106 compliance efforts and reports must be prepared by a qualified researcher that meets the Secretary of the Interior's Professional Qualifications Standards ([www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm)).

In addition, CEQA requires that impacts to cultural and historic resources be analyzed. The "CEQA and Archeological Resources" section from the Governor's Office of Planning and Research CEQA Technical Advice Series states that the lead agency obtains a current records search from the appropriate California Historical Resources Information System Center. Also, to contact the Native American tribes that are culturally affiliated with a project area from the list obtained from the Native American Heritage Commission (NAHC).

The NAHC can be contacted at:

915 Capitol Mall, Room 364  
Sacramento, CA 95814  
Tele: (916) 653-4082

4. Clean Air Act:

For CWSRF financed projects, we recommend including a general conformity section in the CEQA documents so that another public review process will not be needed, should a conformity determination be required. The applicant should check with its local air quality management district and review the Air Resources Board [California air emissions map](#) for information on the State Implementation Plan. For information on the analysis steps involved in evaluating conformity, please contact the State Water Board environmental staff through the assigned Project Manager.

#### 5. Coastal Zone Management Act:

Projects proposing construction in the Coastal Zone will require consultation with either the California Coastal Commission (or the designated local agency with a Local Coastal Program), or the San Francisco Bay Conservation and Development Commission (for projects located in the San Francisco Bay area). The applicant must submit a copy of the approved Coastal Development permit to the State Water Board to satisfy this requirement.

For more information on Coastal Zone Management Act requirements refer to the following agencies websites:

- United States Coastal Zone Boundaries through the NMFS website at <http://coastalmanagement.noaa.gov/mystate/docs/StateCZBoundaries.pdf>;
- California Coastal Commission website at <http://www.coastal.ca.gov/ccatc.html>; and/or
- San Francisco Bay Conservation and Development Commission website at <http://www.bcdc.ca.gov/>.

#### 6. Coastal Barriers Resources Act:

The Coastal Barriers Resources Act is intended to discourage development in the Coastal Barrier Resources System and adjacent wetlands, marshes, estuaries, inlets, and near-shore waters. Since there is no designated Coastal Barrier Resources System in California, no impacts from California projects are expected. However, should the applicant believe there may be impacts to the Coastal Barrier Resources System due to special circumstances, please use the following information as a guide.

During the planning process, the applicant should consult with the appropriate Coastal Zone management agency (e.g., City or County with an approved Local Coastal Program, the California Coastal Commission, or the San Francisco Bay Conservation and Development Commission) to determine if the project will have an effect on the Coastal Barrier Resources System. If the project will have an effect on the Coastal Barrier Resources System, the State Water Board must consult with the appropriate Coastal Zone management agency and the USFWS. Any recommendations from the Coastal Zone management agency and USFWS will be incorporated into the project's design prior to approval of CWSRF financing.

For more information and to ensure that no modifications to Coastal Barrier Resources System have occurred, please visit: [http://www.fws.gov/habitatconservation/coastal\\_barrier.html](http://www.fws.gov/habitatconservation/coastal_barrier.html).

#### 7. Farmland Protection Policy Act:

Projects involving impacts to farmland designated as prime and unique, local and statewide importance, or under a Williamson Act Contract, will require consultation with the United States Department of Agriculture, Natural Resources Conservation Service and/or California Department of Conservation. For more information on the Farmland Protection Policy Act go to <http://www.nrcs.usda.gov/programs/fppa>, and regarding the Williamson Act Contact go to <http://www.consrv.ca.gov/dlrp/lca>.

## 8. Floodplain Management – Executive Order 11988:

Each agency shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities. Before taking an action, each agency shall determine whether the proposed action will occur in a designated floodplain. The generally established standard for risk is the flooding level that is expected to occur every 100 years. If an agency determines or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains.

For further information regarding Floodplain Management requirements, please consult the United States Department of Homeland Security, Federal Emergency Management Agency website at <http://www.fema.gov>, as well as the USEPA floodplain management Executive Order 11988 at <http://www.epa.gov/owow/wetlands/regs/eo11988.html>.

## 9. Migratory Bird Treaty Act (MBTA):

The MBTA restricts the killing, taking, collecting and selling or purchasing of native bird species or their parts, nests, or eggs. The MBTA, along with subsequent amendments to this act, provides legal protection for almost all breeding bird species occurring in the United States and must be addressed under CEQA. In the CEQA document, each agency must make a finding that a project will comply with the MBTA. For further information, please consult the Migratory Bird Program through the USFWS website at <http://www.fws.gov/laws/lawsdigest/migtrea.html>.

## 10. Protection of Wetlands – Executive Order 11990:

Projects, regardless of funding, must get approval for any temporary or permanent disturbance to federal and state waters, wetlands, and vernal pools. The permitting process through the United States Army Corps of Engineers (USACE) can be lengthy, and may ultimately require project alterations to avoid wetlands and waters of the United States. Applicants must consult with the USACE early in the planning process if any portion of the project site contains wetlands, or other federal waters. The USACE Wetland Delineation Manual is available at <http://www.wetlands.com/regs/tlpge02e.htm>. Also note that the California State Water Boards are involved in providing approvals through the Clean Water Act Section 401 Water Quality Certification Program and/or Waste Discharge Requirements. For more information, please go to [http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/cwa401/index.shtml).

## 11. Wild and Scenic Rivers Act:

There are construction restrictions or prohibitions for projects near or in a designated “wild and scenic river.” A listing of designated “wild and scenic rivers” can be obtained at <http://www.rivers.gov/wildriverslist.html>. Watershed information can be obtained through the “Watershed Browser” at [http://cwp.resources.ca.gov/map\\_tools.php](http://cwp.resources.ca.gov/map_tools.php).

## 12. Safe Drinking Water Act, Source Water Protection:

Projects must comply with the Safe Drinking Water Act and document whether or not a project has the potential to contaminate a sole source aquifer. For projects impacting a listed sole source aquifer, the applicant must identify an alternative project location, or develop adequate mitigating measures in consultation with the USEPA. For more information, please go to the Sole Source Aquifer Program website at <http://epa.gov/region09/water/groundwater/ssa.html>.

### 13. Environmental Justice – Executive Order No. 12898:

Identify and address any disproportionately high and adverse human health or environmental effects of the project's activities on minority and low-income populations. USEPA has defined environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies."

*Fair Treatment* means that no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative consequences of industrial, governmental, and commercial operations or programs and policies.

*Meaningful Involvement* means that: 1) potentially affected community members have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; 2) the public's contribution can influence the agency's decision; 3) the concerns of all participants involved will be considered in the decision-making process; and 4) the decision-makers seek out and facilitate the involvement of those potentially affected.

The term "environmental justice concern" is used to indicate the actual or potential lack of fair treatment or meaningful involvement of minority, low-income, or indigenous populations, or tribes in the development, implementation, and enforcement of environmental laws, regulations, and policies.

Your project may involve an "environmental justice concern" if the project could:

- a) Create new disproportionate impacts on minority, low-income, or indigenous populations;
- b) Exacerbate existing disproportionate impacts on minority, low-income, or indigenous populations;
- or
- c) Present opportunities to address existing disproportionate impacts on minority, low-income, or indigenous populations that are addressable through the project.

# ENVIRONMENTAL<sup>1</sup> PACKAGE CHECKLIST

## FOR APPLICANT

### (What to Submit to Project Manager)

**Required for all CWSRF Projects:**

- Evaluation Form for Environmental Review and Federal Coordination with the substantiating information (i.e. USFWS species list/biological assessment, cultural resources documentation, air quality data, flood map etc.)
- Project Report, Scope of Work and Map(s)

Based on the type of CEQA documents prepared for the project, provide additional information as identified in the following boxes.

If project is covered under a **CEQA Categorical or Statutory Exemption**, submit a copy of the following:

- Notice of Exemption** (filed and date stamped by the county clerk and the Governor's Office of Planning and Research)

If project is covered under a **Negative Declaration**, submit a copy of the following:

- Draft and Final Initial Study/Negative Declaration (IS/ND)**
  - Comments and Responses to the Draft IS/ND
- Resolution approving the CEQA documents**
  - Adopting the Negative Declaration
  - Making CEQA Findings
- Notice of Determination** (filed and date stamped by the county clerk and the Governor's Office of Planning and Research)

If project is covered under a **Mitigated Negative Declaration**, submit a copy of the following:

- Draft and Final Initial Study/Mitigated Negative Declaration (IS/MND)**
  - Comments and Responses to the Draft IS/MND
  - Mitigation Monitoring and Reporting Plan/Program (MMRP)
- Resolution approving the CEQA documents**
  - Adopting the Mitigated Negative Declaration and the MMRP
  - Making CEQA Findings
- Notice of Determination** (filed and date stamped by the county clerk and the Governor's Office of Planning and Research)

If project is covered under an **Environmental Impact Report (EIR)**, submit a copy of the following:

- Draft and Final EIR**
  - Comments and Responses to the Draft EIR
  - Mitigation Monitoring and Reporting Plan/Program (MMRP)
- Resolution approving the CEQA documents**
  - Certifying the EIR and adopting the MMRP
  - Making CEQA Findings
  - Adopting a Statement of Overriding Considerations for any adverse environmental impact(s), if applicable
- Notice of Determination** (filed and date stamped by the county clerk and the Governor's Office of Planning and Research)

If EIR is a joint CEQA/National Environmental Policy Act document (EIR/Environmental Impact Statement or EIR/Environmental Assessment), submit the applicable Record of Decision and/or the Finding of No Significant Impact.

<sup>1</sup> If the CEQA document is more than five years old applicant shall provide an updated CEQA document (eg. subsequent, supplemental, or addendum CEQA documents) or a letter that describes the current status of the environmental condition for the project's location.

State Water Resources Control Board (State Water Board)  
Clean Water State Revolving Fund Program

Evaluation Form for Environmental Review and Federal Coordination

CWSRF No.: \_\_\_\_\_

Applicant Name: \_\_\_\_\_

Date: \_\_\_\_\_

Project Title: \_\_\_\_\_

1. **Federal Endangered Species Act (ESA), Section 7:**

Does the project involve any direct effects from construction activities, or indirect effects such as growth inducement that may affect federally listed threatened or endangered species or their critical habitat that are known, or have a potential, to occur on-site, in the surrounding area, or in the service area?

a. **Required documents: Attach project-level biological surveys, evaluations analyzing the project's direct and indirect effects on special-status species, and an up-to-date species list (from the United States Fish and Wildlife Service and the California Natural Diversity Database) for the project area.**

No. Discuss why the project will not impact any federally listed special status species:

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Yes. Provide information on federally listed species that could potentially be affected by this project and any proposed avoidance and compensation measures so that the State Water Board can initiate informal/formal consultation with the applicable federally designated agency. Document any previous ESA consultations that may have occurred for the project. Include any comments below:

\_\_\_\_\_  
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2. **Magnuson-Stevens Fishery Conservation and Management Act, Essential Fish Habitat:**  
**Does the project involve any direct effects from construction activities, or indirect effects such as growth inducement that may adversely affect essential fish habitat?**

No. Discuss why the project will not impact essential fish habitat:

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Yes. Provide information on essential fish habitat that could potentially be affected by this project and any proposed avoidance and compensation measures. Document any consultations with the National Marine Fisheries Service that may have occurred for the project. Include any comments below:

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3. **National Historic Preservation Act, Section 106:**

**Identify the area of potential effects (APE), including construction, staging areas, and depth of any excavation. (Note: the APE is three dimensional and includes all areas that may be affected by the project, including the surface area and extending below ground to the depth of any project excavations).**

- **Required documents: Cultural Resources Assessment** prepared by a prepared by a qualified researcher that meets the Secretary of the Interior's Professional Qualifications Standards ([www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm)). **Current records search** with maps showing all sites and surveys drawn in relation to the project area, and records of **Native American consultation**. Include any comments below:

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**4. Federal Clean Air Act:**

**Identify Air Basin Name** \_\_\_\_\_

**Name of the Local Air District for Project Area:** \_\_\_\_\_

**Is the project subject to a State Implementation Plan (SIP) conformity determination?**

No. The project is in an attainment or unclassified area for all federal criteria pollutants.

Yes. The project is in a nonattainment area or attainment area subject to maintenance plans for a federal criteria pollutant. Include information to indicate the nonattainment designation (e.g. moderate, serious, severe, or extreme), if applicable. If estimated emissions (below) are above the federal de minimis levels, but the project is sized to meet only the needs of current population projections that are used in the approved SIP for air quality, then quantitatively indicate how the proposed capacity increase was calculated using population projections.

- **If you checked “Yes” above, provide the estimated project construction and operational air emissions (in tons per year) in the chart below, and attach supporting calculations.**

- **Also, attach any air quality studies that may have been done for the project.**

Pollutant	Federal Status (Attainment, Nonattainment, Maintenance, or Unclassified)	Nonattainment Rates (i.e., moderate, serious, severe, or extreme)	Threshold of Significance for Project Air Basin (if applicable)	Construction Emissions (Tons/Year)	Operation Emissions (Tons/Year)
Ozone (O <sub>3</sub> )					
Carbon Monoxide (CO)					
Oxides of Nitrogen (NO <sub>x</sub> )					
Reactive Organic Gases (ROG)					
Volatile Organic Compounds (VOC)					
Lead (Pb)					
Particulate Matter less than 2.5 microns in diameter (PM <sub>2.5</sub> )					
Particulate Matter less than 10 microns in diameter (PM <sub>10</sub> )					
Sulfur Dioxide (SO <sub>2</sub> )					

**5. Coastal Zone Management Act:**

**Is any portion of the project site located within the coastal zone?**

No. The project is not within the coastal zone.

Yes. Describe the project location with respect to coastal areas and the status of the coastal zone permit, and provide a copy of the coastal zone permit or coastal exemption:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. **Coastal Barriers Resources Act:**

**Will the project impact or be located within or near the Coastal Barrier Resources System or its adjacent wetlands, marshes, estuaries, inlets, and near-shore waters? Note that since there is currently no Coastal Barrier Resources System in California, projects located in California are not expected to impact the Coastal Barrier Resources System in other states. If there is a special circumstance in which the project may impact a Coastal Barrier Resource System, indicate your reasoning below.**

No. The project will not impact or be located within or near the Coastal Barrier Resources System or its adjacent wetlands, marshes, estuaries, inlets, and near-shore waters.

Yes. Describe the project location with respect to the Coastal Barrier Resources System, and the status of any consultation with the appropriate Coastal Zone management agency and the United States Fish and Wildlife Service:

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7. **Farmland Protection Policy Act:**

**Is any portion of the project located on important farmland?**

No. The project will not impact farmland.

Yes. Include information on the acreage that would be converted from important farmland to other uses. Indicate if any portion of the project boundaries is under a Williamson Act Contract and specify the amount of acreage affected:

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8. **Flood Plain Management:**

**Is any portion of the project located within a 100-year floodplain as depicted on a floodplain map or otherwise designated by the Federal Emergency Management Agency?**

• **Required documents: Attach a floodplain map.**

No. Provide a description of the project location with respect to streams and potential floodplains:

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Yes. Describe the floodplain, and include a floodplains/wetlands assessment. Describe any measures and/or project design modifications that would be implemented to minimize or avoid project impacts:

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**9. Migratory Bird Treaty Act:**

**Will the project affect protected migratory birds that are known, or have a potential, to occur on-site, in the surrounding area, or in the service area?**

No. Provide an explanation below.

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Yes. Discuss the impacts (such as noise and vibration impacts, modification of habitat) to migratory birds that may be directly or indirectly affected by the project and mitigation measures to reduce or eliminate these impacts. Include a list of all migratory birds that could occur where the project is located:

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**10. Protection of Wetlands:**

**Does any portion of the project boundaries contain areas that should be evaluated for wetland delineation or require a permit from the United States Army Corps of Engineers?**

No. Provide the basis for such a determination:

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Yes. Describe the impacts to wetlands, potential wetland areas, and other surface waters, and the avoidance, minimization, and mitigation measures to reduce such impacts. Provide the status of the permit and information on permit requirements:

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**11. Wild and Scenic Rivers Act:**

**Identify watershed where the project is located:** \_\_\_\_\_

**Is any portion of the project located within a wild and scenic river?**

No. The project is not located near a wild and scenic river.

Yes. Identify the wild and scenic river watershed and project location relative to the affected wild and scenic river:

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**12. Safe Drinking Water Act, Sole Source Aquifer Protection:**

**Is the project located in an area designated by the United States Environmental Protection Agency, Region 9, as a Sole Source Aquifer?**

No. The project is not within the boundaries of a sole source aquifer.

Yes. Contact USEPA, Region 9 staff to consult, and identify the sole source aquifer (e.g., Santa Margarita Aquifer, Scott's Valley, the Fresno County Aquifer, the Campo/Cottonwood Creek Aquifer or the Ocotillo-Coyote Wells Aquifer) that will be impacted:

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**13. Environmental Justice:**

**Does the project involve an activity that is likely to be of particular interest to or have particular impact upon minority, low-income, or indigenous populations, or tribes?**

No. Selecting "No" means that this action is not likely to be of any particular interest to or have an impact on these populations or tribes. Explain.

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Yes. If you answer yes, please check at least one of the boxes and provide a brief explanation below:

The project is likely to impact the health of these populations.

The project is likely to impact the environmental conditions of these populations.

The project is likely to present an opportunity to address an existing disproportionate impact of these populations.

The project is likely to result in the collection of information or data that could be used to assess potential impacts on the health or environmental conditions of these populations.

The project is likely to affect the availability of information to these populations.

Other reasons, describe: \_\_\_\_\_

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# BASIC CRITERIA FOR CULTURAL RESOURCES REPORTS

## FOR SECTION 106 CONSULTATION WITH THE STATE HISTORIC PRESERVATION OFFICER (SHPO) UNDER THE NATIONAL HISTORIC PRESERVATION ACT (NHPA)

### CULTURAL RESOURCES REPORTS

The Section 106 compliance efforts and reports must be prepared by a qualified researcher that meets the Secretary of the Interior's Professional Qualifications Standards ([www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm)).

### REPORT TERMINOLOGY

- A cultural resources report used for Section 106 consultation should use terminology consistent with the NHPA.
- This doesn't mean that the report needs to "filled" with passages and interpretations of the regulations, the SHPO reviewer already knows the law.
- If "findings" are made they must be one of the four "findings" listed in Section 106. These include:
  - "No historic properties affected" (no properties are within the APE, including the below ground APE).
  - "No effect to historic properties" (properties may be near the APE but the project will not impact them).
  - "No adverse effect to historic properties" (the project may affect historic properties but the impacts will not be adverse)
  - "Adverse effect to historic properties". *Note: the SHPO must be consulted at this point. If your consultant proceeds on his own, his efforts may be wasted.*

### CURRENT RECORDS SEARCH INFORMATION

- A current (less than a year old) records search from the appropriate Information Center is necessary. The records search should include maps that show all recorded sites and surveys in relation to the area of potential effects (APE) for the project.
- The APE is three-dimensional and includes all areas that may be affected by the project. It includes the surface area and extends below ground to the depth of any project excavations.
- The records search request should be made for an area larger than the APE. The appropriate area varies for different projects but should be drawn large enough to provide information on what types of sites may exist in the vicinity.

## NATIVE AMERICAN AND INTERESTED PARTY CONSULTATION

- Native American and interested party consultation should be initiated at the beginning of any cultural resource investigations. The purpose is to gather information from people with local knowledge that may be used to guide research.
- A project description and map should be sent to the Native American Heritage Commission (NAHC) requesting a check of their Sacred Lands Files. The Sacred Lands Files include religious and cultural places that are not recorded at the information centers.
- The NAHC will include a list of Native American groups and individuals with their response. A project description and maps should be sent to everyone on the list asking for information on the project area.
- Similar letters should be sent to local historical organizations.
- Follow-up contact should be made by phone if possible and a phone log should be included in the report.

## WARNING PHRASES IN ALREADY PREPARED CEQA REPORTS

- A finding of “**no known resources**”, this doesn’t mean anything. The consultant’s job is to find out if there are resources within the APE or to explain why they are not present.
- “**The area is sensitive for buried archaeological resources**”, followed by a statement that “**monitoring is recommended as mitigation**”. Monitoring is not an acceptable mitigation. A reasonable effort should be made to find out if buried resources are present in the APE.
- “**The area is already disturbed by previous construction**”, this may be true, but documentation is still needed to show that the new project will not affect cultural resources. As an example, an existing road can be protecting a buried archaeological site. Or, previous construction may have impacted an archaeological site that was never documented.
- No mention of “**Section 106**”, a report that gives adequate information for CEQA may not be sufficient to comply with Section 106.

S:\Funding Programs\Environmental Review Unit\Outreach\BASIC CRITERIA FOR SECTION 106 revised June 13 2012 by md.doc

August 9, 2012

Susan Stewart  
California State Water Resources Board  
P.O. Box 100  
Sacramento, CA 95812-0100

**RE: *Sanitary Sewer Line Improvements for Alamden Expressway, Coleman Avenue, and Husted-Richland Lines, SCH No. 2012062043***

Dear Ms. Stewart:

Thank you for your comments on the IS/MND for the above-referenced project. To clarify, the City is not seeking Clean Water State Revolving Funds (SRF) financing for this project. Because the project will not be utilizing SRF financing or any other sources of federal funding, additional CEQA Plus and associated federal review is not required. The IS/MND meets all necessary CEQA requirements for the project as proposed.

With regards to your specific concerns on the IS/MND, please see responses below:

1. Attached is a copy of the archaeological report prepared for the project (Holman & Associates) in accordance with CEQA requirements; Section 106 evaluation was not triggered since the project will not utilize federal funds or otherwise require NEPA review. Please note that the archaeological report is confidential due to the sensitive nature of the information disclosed.
2. As described in Mitigation CR-1, the subsurface investigation will be conducted by a qualified archaeologist prior to issuance of a building permit. If geoprobe samples identify resources or areas with a high likelihood to contain archaeological resources, appropriate measures will be identified and implemented prior to construction of the project. A report outlining the geoprobe program and findings, including measures for any significant resources, will be submitted to the City to assure compliance with this measure. No Section 106 analysis is required for this project as described above.
3. As described in the MND, a historical resources records search was conducted by Holman & Associates at the Northwest Information Center of the California Historical Resources Information System at Sonoma State University. Results are summarized in the attached archaeological report.
4. The project did not require NAHC consultation since it does not meet any of the requirements for such consultation (e.g., Section 106 evaluation, General Plan amendment).

5. As described in the MND, if it appears that the project would affect a significant cultural resource during construction, a plan to evaluate and mitigate for any impacts to the resource will be required subject to City approval before construction-related earthmoving is allowed to recommence.
6. A copy of the FEMA map is available at the Agency's website at [www.msc.fema.gov](http://www.msc.fema.gov).
7. Thank you for noting errors to the table, which has been corrected. The explanation and analysis in the text of the ISMND is correct and remains unchanged.
8. Noted.
9. The air quality model and assumptions did not include implementation of these measures recommended by the BAAQMD, representing a conservative analysis. The project contractor's would implement these measures during construction to the extent feasible.
10. An MMRP will be prepared and included in the environmental record.

Sincerely,



John Davidson  
City of San Jose Planning Division  
Environmental Review Section  
[john.davidson@sanjoseca.gov](mailto:john.davidson@sanjoseca.gov)  
535-7895



EDMUND G. BROWN JR.  
GOVERNOR

STATE OF CALIFORNIA

GOVERNOR'S OFFICE of PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX  
DIRECTOR

July 13, 2012

John Davidson  
City of San Jose  
200 East Santa Street, Tower 3  
San Jose, CA 95113-1905

Subject: Sanitary Sewer Line Improvements for the Almaden Expressway, Coleman Road, and Husted-Richland Lines, File No. PP11-091  
SCH#: 2012062043

Dear John Davidson:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. The review period closed on July 12, 2012, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2012062043  
**Project Title** Sanitary Sewer Line Improvements for the Almaden Expressway, Coleman Road, and  
**Lead Agency** Husted-Richland Lines, File No. PP11-091  
San Jose, City of

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**Type** MND Mitigated Negative Declaration  
**Description** Replacement of the existing sanitary sewer lines with new sewer lines and associated improvements within sections of existing roadway rights-of-way at three locations: 1) Almaden Expressway, generally between Camden Avenue and Burnside Drive, 2) Coleman Road, between Almaden Expressway and Sentinel Street, and 3) Husted Avenue, generally between Fairglen Drive and Lincoln Avenue.

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**Lead Agency Contact**

**Name** John Davidson  
**Agency** City of San Jose  
**Phone** 408 535 7895 **Fax**  
**email**  
**Address** 200 East Santa Street, Tower 3  
**City** San Jose **State** CA **Zip** 95113-1905

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**Project Location**

**County** Santa Clara  
**City** San Jose  
**Region**  
**Lat / Long**  
**Cross Streets**  
**Parcel No.** Public Rights of Way  
**Township** **Range** **Section** **Base**

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**Proximity to:**

**Highways** Hwy 85, 87  
**Airports**  
**Railways**  
**Waterways** Greystone Creek, Guadalupe Creek and River, Randol Creek  
**Schools** Santa Clara USD  
**Land Use**

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**Project Issues** Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Noise; Public Services; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Wildlife; Landuse; Other Issues

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**Reviewing Agencies** Resources Agency; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 4; CA Department of Public Health; State Water Resources Control Board, Division of Financial Assistance; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission

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**Date Received** 06/13/2012 **Start of Review** 06/13/2012 **End of Review** 07/12/2012