



City of Hesperia

Gateway to the High Desert

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT AND PUBLIC SCOPING MEETING

Date: June 22, 2020

To: State Agencies, Responsible Agencies, Local and Public Agencies, and Interested Parties

From/Lead Agency: City of Hesperia, Planning Department

Subject: Notice of Preparation of an Environmental Impact Report for the United States Cold Storage Hesperia Project

This Notice of Preparation (NOP) has been prepared to notify agencies and interested parties that the City of Hesperia (City), as lead agency, is commencing preparation of an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA) to evaluate the potential environmental effects associated with implementation of the United States Cold Storage Hesperia Project (Proposed Project).

The City is requesting input from interested individuals, organizations, and agencies regarding the scope and content of the environmental analysis to be included in the EIR. In accordance with CEQA, the City requests that agencies provide comments on the environmental issues related to the statutory responsibilities of their particular agency. This NOP contains a description of the Proposed Project and Project Site, and a preliminary determination of the environmental resource topics to be addressed in the EIR.

Project Location

The 78.70-acre Project Site occurs on the east side of US-395, between Yucca Terrace Drive to the south and Avenal Street to the north in the City of Hesperia (See Figure 1 – Regional Map and Figure 2 - Project Vicinity). The Project Site Assessor's Parcel Numbers are 3064-421-01, -02 & -03, and it is located in Section 15, Township 4 North, Range 5 West, SBB&M, USGS Baldy Mesa, 7.5-minute quadrangle. Regional access to the Project site includes Highway 395 immediately adjacent to the west, and Interstate 15, located approximately one mile to the east.

Project Summary

The Proposed Project would include one building on the northern portion of the Project Site that is proposed to be a total of 515,334 square-feet (see Figure 3 – Site Plan). It would include

both two-story and high bay warehousing areas and 31,594 square-feet of office space. The second building on the southern portion of the property is proposed to be a total of 531,434 square-feet and would include a two-story warehousing area and 31,594 square-feet of office space. Each building would also include a 71,352 square-foot loading dock for truck trailers that includes a 23,522 square-foot area for driver services. The maximum height of the two warehouse buildings is proposed to be approximately 150 feet. The Proposed Project also includes a bioretention basin on the northeast corner of the site to capture and treat stormwater. A solar array field is proposed in the east portion of the Project Site to generate approximately 2.35 MW to serve the facility; no energy generated would be sold to the grid. Also proposed are passenger vehicle parking spaces and landscaping.

The Project requires the City of Hesperia to consider:

- Approval of Conditional Use Permit (CUP)
- Approval of a Tentative Parcel Map
- Approval of Development Agreement

Potential Environmental Impacts of the Project

As discussed in the Initial Study (available for review on the City's website: <https://www.cityofhesperia.us/312/Planning> and in person at Hesperia City Hall, Planning Department, 9700 Seventh Avenue, Hesperia), the EIR will evaluate whether implementation of the Project may potentially result in one or more significant environmental impacts. The potential environmental effects to be addressed in the EIR will include, but may not be limited to the following:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology/Soils/Paleontology
- Greenhouse Gas Emissions
- Hazards/Hazardous Materials
- Hydrology and Water Quality
- Noise
- Transportation
- Tribal Cultural Resources
- Utilities and Services Systems
- Wildfire

The EIR will also address all other CEQA-mandated topics, including cumulative impacts and Project alternatives.

Public Scoping Comment Period and Scoping Meeting

Public Scoping Comment Period

The City has established a 30-day public scoping period. During the scoping period, the City's intent is to disseminate Project information to the public and solicit comments from agencies, organizations, and interested parties, including nearby residents and business owners, regarding

the scope and content of the environmental information to be included in the EIR, including mitigation measures or Project alternatives to reduce potential environmental effects. During this period, this NOP and the Initial Study may be accessed electronically at the following website:

<https://www.cityofhesperia.us/312/Planning>

This NOP and the Initial Study are also available for review in-person at Hesperia City Hall, Planning Department, 9700 Seventh Avenue, Hesperia, California 92345.

Scoping Meeting: The City will hold a scoping meeting for the project to receive comments on the scope and content of the EIR. You are welcome to attend the scoping meeting and present environmental information that you believe should be considered in the EIR. The scoping meeting is scheduled in the Council Chambers at Hesperia City Hall as follows:

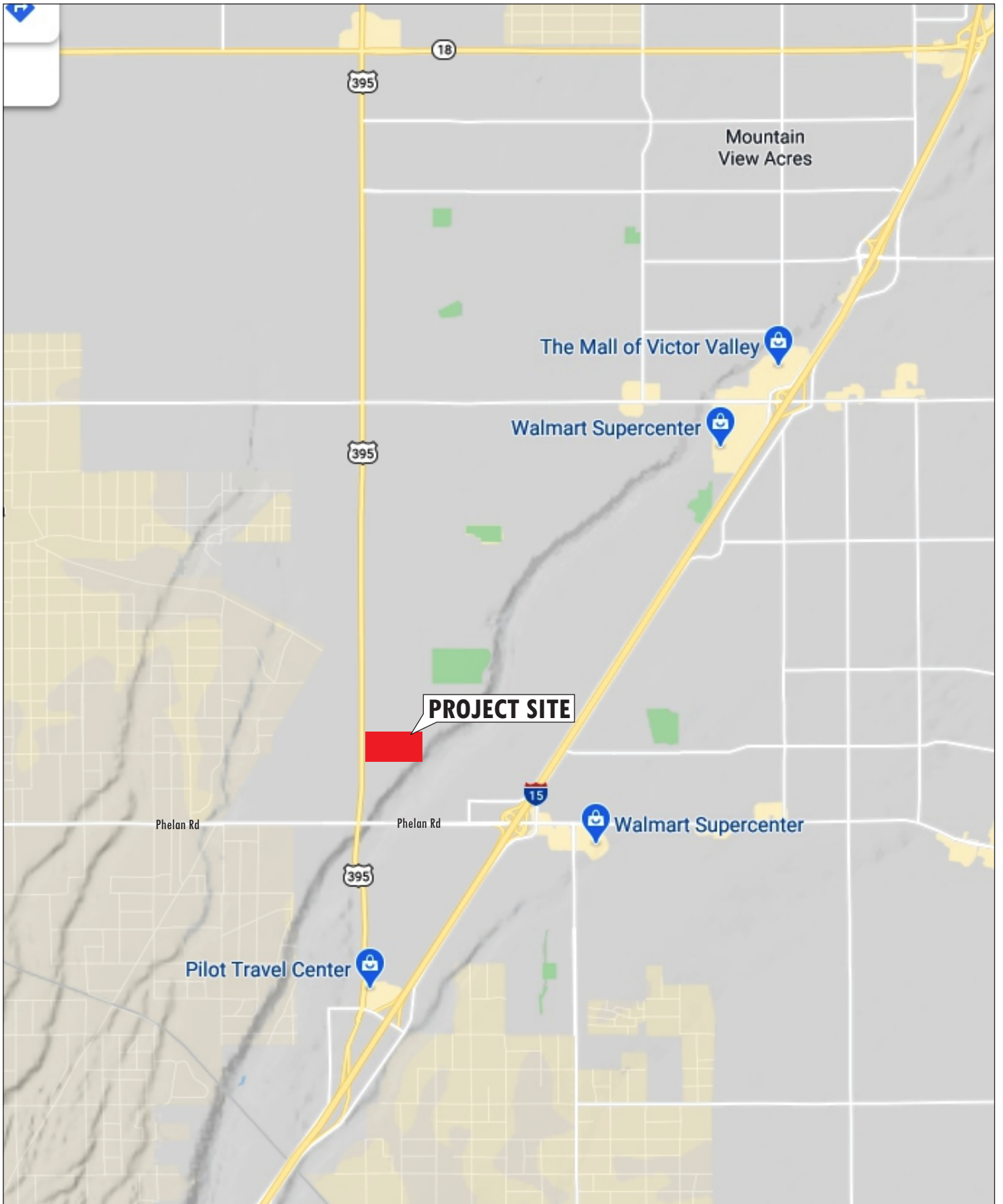
Date: July 9, 2020

Time: 6:30 PM

Place: City of Hesperia City Hall, 9700 Seventh Avenue, Hesperia

All scoping comments must be received in writing by 5:00 p.m. on July 24, 2020, which marks the end of the 30-day public scoping period. All written comments should indicate an associated contact person for the agency or organization, if applicable, and reference the Project name in the subject line. Pursuant to CEQA, responsible agencies are requested to indicate their statutory responsibilities in connection with the Project when responding. Please mail or email comments and direct any questions to the following contact person:

**Ryan Leonard, Senior Planner City of Hesperia Planning Department
9700 Seventh Avenue
Hesperia, California 92345
Phone: (760) 947-1651
Email: rleonard@cityofhesperia.us**



REGIONAL LOCATION
 United States Cold Storage Hesperia
 Hesperia, California

FIGURE 1



PROJECT SITE

Avenal St

Avenal St

Los Altos Dr

Bolinas St

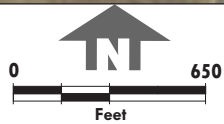
Yucca Terrace Dr

Yucca Terrace Dr

395

395

395

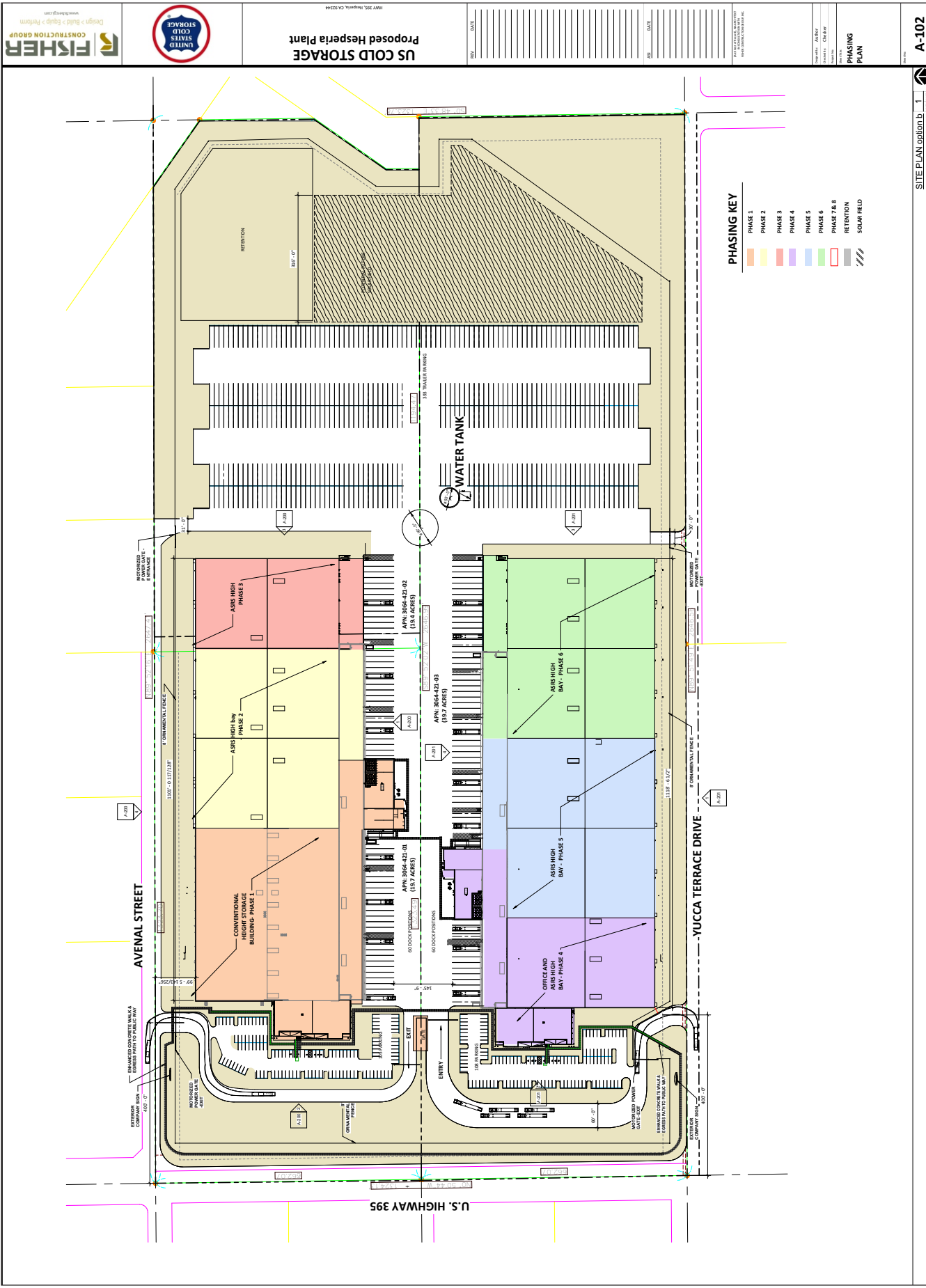


Source: Lilburn Corporation, May, 2020.

LILBURN
CORPORATION

PROJECT VICINITY
United States Cold Storage Hesperia
Hesperia, California

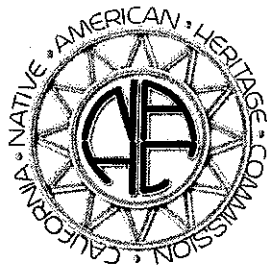
FIGURE 2



REV.	DATE

SITE PLAN
 United States Cold Storage Hesperia
 Hesperia, California
FIGURE 3

COMMENT LETTERS



NATIVE AMERICAN HERITAGE COMMISSION

June 30, 2020

Ryan Leonard
City of Hesperia
9700 Seventh Ave.
Hesperia, CA 92345

CHAIRPERSON
Laura Miranda
Luiseño

VICE CHAIRPERSON
Reginald Pagalling
Chumash

SECRETARY
Merri Lopez-Keifer
Luiseño

PARLIAMENTARIAN
Russell Attebery
Karuk

COMMISSIONER
Marshall McKay
Wintun

COMMISSIONER
William Mungary
Paiute/White Mountain
Apache

COMMISSIONER
**Julie Tumamait-
Stenslie**
Chumash

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
Pomo

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

Re: 2020069036, United States Cold Storage Hesperia Project, San Bernardino County

Dear Mr. Leonard:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
 - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subs. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:
Andrew.Green@nahc.ca.gov.

Sincerely,



Andrew Green
Cultural Resources Analyst

cc: State Clearinghouse



T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
richard@lozeaudrury.com

VIA EMAIL

July 20, 2020

Ryan Leonard, Senior Planner
Development Services Department
Planning Division
9700 Seventh Ave
Hesperia, CA 92345
rleonard@cityofhesperia.us

Mike Blay, Director
Development Services Department
City of Hesperia
9700 Seventh Ave
Hesperia, CA 92345
mblay@cityofhesperia.us

Melinda Sayre, City Clerk
City Clerk's Office
City of Hesperia
9700 Seventh Ave
Hesperia, CA 92345
msayre@cityofhesperia.us

Re: CEQA and Land Use Notice Request for United States Cold Storage Hesperia Project (SCH 2020069036)

Dear Mr. Leonard, Mr. Blay, and Ms. Sayre,

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the United States Cold Storage Hesperia Project (SCH 2020069036), including all actions referring or related to the proposed development of one 515,334 square foot building to include both two-story and high-bay warehousing areas and 31,594 square feet of office space, and one 531,434 square foot building to include a two-story warehousing area and 31,594 of office space, along with loading docks, a bioretention basin, a solar array field, and passenger vehicle parking spaces and landscaping ("Project").

We hereby request that the City of Hesperia ("Hesperia") send by electronic mail, if possible or U.S. Mail to our firm at the address below notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivisions, and/or supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the City, including, but not limited to the following:

- Notice of any public hearing in connection with the Project as required by California Planning and Zoning Law pursuant to Government Code Section 65091.
- Any and all notices prepared for the Project pursuant to the California Environmental Quality Act ("CEQA"), including, but not limited to:
 - Notices of any public hearing held pursuant to CEQA.

July 20,2020

CEQA and Land Use Notice Request for United States Cold Storage Hesperia Project (SCH 2020069036)

Page 2 of 2

- Notices of determination that an Environmental Impact Report (“EIR”) is required for the Project, prepared pursuant to Public Resources Code Section 21080.4.
- Notices of any scoping meeting held pursuant to Public Resources Code Section 21083.9.
- Notices of preparation of an EIR or a negative declaration for the Project, prepared pursuant to Public Resources Code Section 21092.
- Notices of availability of an EIR or a negative declaration for the Project, prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations.
- Notices of approval and/or determination to carry out the Project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- Notices of approval or certification of any EIR or negative declaration, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- Notices of determination that the Project is exempt from CEQA, prepared pursuant to Public Resources Code section 21152 or any other provision of law.
- Notice of any Final EIR prepared pursuant to CEQA.
- Notice of determination, prepared pursuant to Public Resources Code Section 21108 or Section 21152.

Please note that we are requesting notices of CEQA actions and notices of any public hearings to be held under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law. **This request is filed pursuant to Public Resources Code Sections 21092.2 and 21167(f), and Government Code Section 65092**, which requires agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

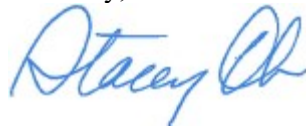
In addition, we request that the City send to us via email, if possible or U.S. Mail a copy of all Planning Commission and City Council meetings and/or hearing agendas.

Please send notice by electronic mail, if possible or U.S. Mail to:

Richard Drury
Komalpreet Toor
Stacey Osborne
Lozeau Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94612
510 836-4200
richard@lozeaudrury.com
komal@lozeaudrury.com
stacey@lozeaudrury.com

Please call if you have any questions. Thank you for your attention to this matter.

Sincerely,



Stacey Osborne
Paralegal
Lozeau | Drury LLP

Mojave Desert Air Quality Management District

Brad Poiriez, *Executive Director*
14306 Park Avenue, Victorville, CA 92392-2310
760.245.1661 • Fax 760.245.2022
www.MDAQMD.ca.gov • @MDAQMD



July 20, 2020

Ryan Leonard, Senior Planner
City of Hesperia, Planning Department
9700 Seventh Avenue
Hesperia, CA 92345

Project: United States Cold Storage Hesperia

Dear Mr. Leonard:

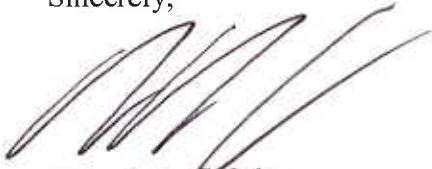
The Mojave Desert Air Quality Management District (District) has reviewed the Initial Study for the United States Cold Storage Hesperia project. The Proposed Project would include one building on the northern portion of the Project Site that is proposed to be a total of 515,334 square-feet. It would include both two-story and high bay warehousing areas and 31,594 square-feet of office space. The second building on the southern portion of the property is proposed to be a total of 531,434 square-feet and would include a two-story warehousing area and 31,594 square-feet of office space. Each building would also include a 71,352 square-foot loading dock for truck trailers that includes a 23,522 square-foot area for driver services. The proposed project site is on the east side of US-395, north of Yucca Terrace Drive and south of Avenal Street.

The District has reviewed the Initial Study for the project and concurs that the Draft Environmental Impact Report (DEIR) should address the listed Air Quality elements. MDAQMD CEQA Guidelines are located at <https://www.mdaqmd.ca.gov/rules/overview> and includes *Recommended Impacts Discussion Elements*, and *Sensitive Receptor Land Uses* information for distribution centers. A Dust Control Plan will be required for this project. The most current Dust Control Plan Requirements and Dust Control Plan Submission Form are available at <http://mdaqmd.ca.gov/permitting/compliance-forms>. The project proponent must also obtain any miscellaneous process equipment that may not be exempt under District Rule 219 including, but not limited to, Internal Combustion Engines with a manufacturer's maximum continuous rating greater than 50 brake horsepower, and fire pumps. Permit application forms may be located at <https://www.mdaqmd.ca.gov/permitting/forms>.

It does not appear that the Mojave Desert Air Quality Management District is listed as a Reviewing Agency in the Notice of Preparation. The MDAQMD would be the appropriate agency to review the Air Quality portion of the DEIR.

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Tracy Walters at extension 6122.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alan J. De Salvio', written in a cursive style.

Alan J. De Salvio
Deputy Director – Mojave Desert Operations

AJD/tw

Hesperia US Cold Storage.doc

P: (626) 381-9248
F: (626) 389-5414
E: mitch@mitchtsailaw.com



Mitchell M. Tsai
Attorney At Law

155 South El Molino Avenue
Suite 104
Pasadena, California 91101

VIA U.S. MAIL & E-MAIL

July 21, 2020

Ryan Leonard, Senior Planner
City of Hesperia Planning Department
9700 Seventh Avenue
Hesperia, CA 92345
Em: rleonard@cityofhesperia.us

RE: Notice of Scoping Meeting & Preparation of a Draft Environmental Impact Report for the United States Cold Storage Hesperia Project

Dear Mr. Leonard,

On behalf of the Southwest Regional Council of Carpenters (“**Commenter**” or “**Carpenters**”), my Office is submitting these comments on the City of Hesperia’s (“**City**” or “**Lead Agency**”) Notice of Preparation of an Environmental Impact Report (“**NOIP**”) (SCH No. 2020069036) for the United States Cold Storage Project, which proposes to construct multiple structures including a 515, 334 square-foot storage facility, a bioretention basin, and a solar array field on 78.8 acres east of US Highway 395, between Yucca Terrace Drive and Avenal Street in the City of Hesperia. (“**Project**”).

The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states, including in southern California, and has a strong interest in well ordered land use planning and addressing the environmental impacts of development projects.

Individual members of the Southwest live, work and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

Commenter expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens*

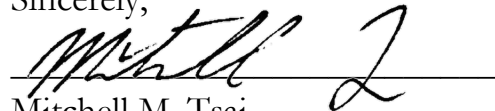
for Local Control v. Bakersfield (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenter incorporates by reference all comments raising issues regarding the environmental impact report (“**EIR**”) submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, Commenter requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“**CEQA**”), Cal Public Resources Code (“**PRC**”) § 21000 *et seq.*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

If the City has any questions or concerns, feel free to contact my Office.

Sincerely,



Mitchell M. Tsai

Attorneys for Southwest Regional
Council of Carpenters

July 24, 2020

Ryan Leonard
Senior Planner
City of Hesperia
9700 Seventh Avenue
Hesperia, California 92345
Submitted via email: leonard@cityofhesperia.us

Dear Ryan Leonard:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Notice of Preparation (NOP) for the United States Cold Storage Hesperia Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2020069036. The Project proposes the construction and operation of 2 cold storage warehouse buildings totaling 1,046,798 square feet. The proposed Project is within the City of Hesperia (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

Freight facilities, such as cold storage warehouses, can result in high daily volumes of heavy-duty diesel truck traffic and operation of on-site equipment (e.g., forklifts and yard tractors) that emit toxic diesel emissions, and contribute to regional air pollution and global climate change.¹ CARB has reviewed the NOP and is concerned about the air pollution and health risk impacts that would result should the City approve the Project.

I. The Project Would Increase Exposure to Air Pollution in Disadvantaged Communities

The Project, if approved, will expose nearby communities to elevated air pollution. Residences are located northwest and southeast of the Project site, with the closest residences situated approximately 780 feet from the Project's northwest boundary. In addition to residences, 2 schools (Canyon Ridge High School and Mission Crest Elementary School) are located within 2 miles of the Project. The communities near the Project are exposed to existing toxic diesel particulate matter (diesel PM) emissions from vehicular traffic along Interstate 15 (I-15). Due to the Project's proximity to residences and schools already burdened by air pollution, CARB is concerned with the potential cumulative health impacts associated with the construction and operation of the Project.

¹ With regard to greenhouse gas emissions from this project, CARB has been clear that local governments and project proponents have a responsibility to properly mitigate these impacts. CARB's guidance, set out in detail in the Scoping Plan issued in 2017, makes clear that in CARB's expert view, local mitigation is critical to achieving climate goals and reducing greenhouse gases below levels of significance.

The State of California has placed additional emphasis on protecting local communities from the harmful effects of air pollution through the passage of Assembly Bill 617 (AB 617) (Garcia, Chapter 136, Statutes of 2017). AB 617 is a significant piece of air quality legislation that highlights the need for further emission reductions in communities with high exposure burdens, like those in which the Project is located. Diesel PM emissions generated during the construction and operation of the Project would negatively impact the community, which is already disproportionately impacted by air pollution from traffic on I-15.

II. The DEIR Should Quantify and Discuss the Potential Cancer Risks from On-site Transport Refrigeration Units

Although the Project description in the NOP does not specify the final use of the proposed warehouse facilities, the title of the Project implies that they would be used for cold storage. Therefore, it seems likely that trucks and trailers visiting the Project site would be equipped with transport refrigeration units (TRU).² TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within the Project site. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located near where these TRUs could be operating, would be exposed to diesel exhaust emissions that would result in a significant cancer risk.

CARB urges the City to model air pollutant emissions from on-site TRUs in the DEIR, as well as include potential cancer risks from on-site TRUs in the Project's health risk assessment (HRA). The HRA prepared for the Project should account for all potential health risks from Project-related diesel PM emission sources such as backup generators, TRUs, and heavy-duty truck traffic, and include all the air pollutant reduction measures listed in Attachment A of this comment letter.

In addition to the health risks associated with operational emissions, health risks associated with construction emissions should also be included in the air quality section of the DEIR and the Project's HRA. Construction of the Project would result in short-term diesel emissions from the use of both on-road and off-road diesel equipment. The Office of Environmental Health Hazard Assessment's (OEHHA) guidance recommends assessing cancer risks for construction projects lasting longer than two months. Since construction would very likely occur over a period lasting longer than two months, the HRA prepared for the Project should include health risks for existing residences near the Project site during construction.

The HRA prepared in support of the Project should be based on the latest OEHHA guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments)³ The HRA should evaluate and present the existing baseline

² TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in an insulated truck and trailer vans, rail cars, and domestic shipping containers.

³ Office of Environmental Health Hazard Assessment (OEHHA). Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. February 2015. Accessed at: <https://oehha.ca.gov/media/downloads/cmr/2015guidancemanual.pdf>.

(current conditions), future baseline (full build-out year, without the Project), and future year with the Project. The health risks modeled under both the existing and the future baselines should reflect all applicable federal, state, and local rules and regulations. By evaluating health risks using both baselines, the public and City planners will have a complete understanding of the potential health impacts that would result from the Project.

III. Conclusion

To reduce the exposure of toxic diesel PM emissions in disadvantaged communities already disproportionately impacted by air pollution, the final design of the Project should include all existing and emerging zero-emission technologies to minimize diesel PM and oxides of nitrogen (NO_x) emissions, as well as the greenhouse gases that contribute to climate change. CARB encourages the City and applicant to implement the measures listed in Attachment A of this comment letter to reduce the Project's construction and operational air pollution emissions.

Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

CARB appreciates the opportunity to comment on the NOP for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your State Clearinghouse list of selected State agencies that will receive the DEIR as part of the comment period. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, via email at stanley.armstrong@arb.ca.gov.

Sincerely,



Richard Boyd, Chief
Risk Reduction Branch
Transportation and Toxics Division

Attachment

cc: See next page.

Ryan Leonard
July 24, 2020
Page 4

cc: State Clearinghouse
state.clearinghouse@opr.ca.gov

Carlo De La Cruz
Senior Campaign Representative
Sierra Club
carlo.delacruz@sierraclub.org

Alan De Salvio
Deputy Director of Mojave Desert Operations
Mojave Desert Air Quality Management District
adesalvio@mdaqmd.ca.gov

Morgan Capilla
NEPA Reviewer
U.S. Environmental Protection Agency
Air Division, Region 9
capilla.morgan@epa.gov

Taylor Thomas
Research and Policy Analyst
East Yard Communities for Environmental Justice
tbthomas@eycej.org

Stanley Armstrong
Air Pollution Specialist
Risk Analysis Section
Transportation and Toxics Division
stanley.armstrong@arb.ca.gov

ATTACHMENT A

Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers

The California Air Resources Board (CARB) recommends developers and government planners use all existing and emerging zero to near-zero emission technologies during project construction and operation to minimize public exposure to air pollution. Below are some measures, currently recommended by CARB, specific to warehouse and distribution center projects. These recommendations are subject to change as new zero-emission technologies become available.

Recommended Construction Measures

1. Ensure the cleanest possible construction practices and equipment are used. This includes eliminating the idling of diesel-powered equipment and providing the necessary infrastructure (e.g., electrical hookups) to support zero and near-zero equipment and tools.
2. Implement, and plan accordingly for, the necessary infrastructure to support the zero and near-zero emission technology vehicles and equipment that will be operating on site. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, on-site vehicles and equipment, and medium-heavy and heavy-heavy duty trucks.
3. In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits, such that, emission reductions achieved equal or exceed that of a Tier 4 engine.
4. In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be battery powered.
5. In construction contracts, include language that requires all heavy-duty trucks entering the construction site, during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-oxides of nitrogen (NO_x) standard starting in the year 2022.¹

¹ In 2013, CARB adopted optional low-NO_x emission standards for on-road heavy-duty engines. CARB encourages engine manufacturers to introduce new technologies to reduce NO_x emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model year 2010 and later. CARB's optional low-NO_x emission standard is available at: <https://www.arb.ca.gov/msprog/onroad/optionnox/optionnox.htm>.

6. In construction contracts, include language that requires all construction equipment and fleets to be in compliance with all current air quality regulations. CARB is available to assist in implementing this recommendation.

Recommended Operation Measures

1. Include contractual language in tenant lease agreements that requires tenants to use the cleanest technologies available, and to provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site.
2. Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included in lease agreements.²
3. Include contractual language in tenant lease agreements that requires all TRUs entering the project site be plug-in capable.
4. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
5. Include contractual language in tenant lease agreements requiring all TRUs, trucks, and cars entering the Project site be zero-emission.
6. Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the project site to be zero-emission. This equipment is widely available.
7. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be model year 2014 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.

² CARB's Technology Assessment for Transport Refrigerators provides information on the current and projected development of TRUs, including current and anticipated costs. The assessment is available at: https://www.arb.ca.gov/msprog/tech/techreport/tru_07292015.pdf.

8. Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation,³ Periodic Smoke Inspection Program (PSIP),⁴ and the Statewide Truck and Bus Regulation.⁵
9. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than 5 minutes while on site.
10. Include contractual language in tenant lease agreements that limits on-site TRU diesel engine runtime to no longer than 15 minutes. If no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted, and the health impacts fully mitigated.
11. Include rooftop solar panels for each proposed warehouse to the extent feasible, with a capacity that matches the maximum allowed for distributed solar connections to the grid.
12. Including language in tenant lease agreements, requiring the installing of vegetative walls⁶ or other effective barriers that separate loading docks and people living or working nearby.

³ In December 2008, CARB adopted a regulation to reduce greenhouse gas emissions by improving the fuel efficiency of heavy-duty tractors that pull 53-foot or longer box-type trailers. The regulation applies primarily to owners of 53-foot or longer box-type trailers, including both dry-van and refrigerated-van trailers, and owners of the heavy-duty tractors that pull them on California highways. CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation is available at: <https://www.arb.ca.gov/cc/hdghg/hdghg.htm>.

⁴ The PSIP program requires that diesel and bus fleet owners conduct annual smoke opacity inspections of their vehicles and repair those with excessive smoke emissions to ensure compliance. CARB's PSIP program is available at: <https://www.arb.ca.gov/enf/hdvp/hdvp.htm>.

⁵ The regulation requires that newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. CARB's Statewide Truck and Bus Regulation is available at: <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.

⁶ Effectiveness of Sound Wall-Vegetation Combination Barriers as Near-Roadway Pollutant Mitigation Strategies (2017) is available at: <https://ww2.arb.ca.gov/sites/default/files/classic/research/apr/past/13-306.pdf>.

From: [Ryan Leonard - Senior Planner](#)
To: [Cheryl Tubbs](#); [Natalie Patty](#)
Cc: [Juan Ozuna](#); [Chris Borchert](#)
Subject: FW: Initial Study for United States Cold Storage Hesperia
Date: Monday, July 27, 2020 1:26:18 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Comment #2 from neighboring property owner at 10368 Hwy 395.

Ryan Leonard, AICP
Senior Planner

City of Hesperia

760-947-1651

760-947-1221 (FAX)



From: Amer Hazboon [mailto:amer1@mac.com]
Sent: Friday, July 24, 2020 4:08 PM
To: Ryan Leonard - Senior Planner <rleonard@cityofhesperia.us>; Chris Borchert <cborchert@cityofhesperia.us>; Erin Baum <ebaum@cityofhesperia.us>
Subject: Initial Study for United States Cold Storage Hesperia

Hi Ryan,

We are in receipt of the Notice of Meeting Cancellation regarding the proposed United States Cold Storage Hesperia. Our property is located at 10368 US HWY 395, Hesperia. It can be seen on the Site map as the property located across 395 to the northwest (white residence with red tile roof and commercial buildings). We have reviewed the Initial Study and welcome the advancement of the proposed development. Our biggest concern is traffic.

We understand such an undertaking is not without impact. Currently, the traffic on 395 is getting heavier by the year making leaving our property a burden at times due to the long wait for traffic to open up. The traffic normally travels at higher than the posted speed limit (based on being passed while traveling at the speed limit). To add to the complexity, the area between the proposed development (and our property) and the aqueduct, usually in close proximity of the aqueduct, has experienced numerous car accidents resulting in fatalities.

As a civil engineer and environmental consultant, I understand the level of complexity and effort required to conduct a TIA and develop an EIR. As residents and business owners, our opinion is to see HWY 395 in the area developed into multiple lanes in each direction with a reduced speed limit to allow for traffic to reduce speed safely to turn into the development at Yucca Terrace and Avenal as well as other surrounding streets. We think that additional traffic signals would bring the speed down and help reduce the speed related fatalities and make egress and ingress into the surrounding community less burdensome.

I am sure that TIA and EIR will present a clear understanding of the current and future traffic needs for the area and assist planning with determining the best course of action to

mitigate traffic congestion and speed issues. We look forward to the development and continued improvements in the area.

All the best,

Amer Hazboon, PE
Sid Hazboon
Latifeh Hazboon

Total Control Panel

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To: cheryl@lilburncorp.com [Remove](#) this sender from my allow list

From:

rleonard@cityofhesperia.us

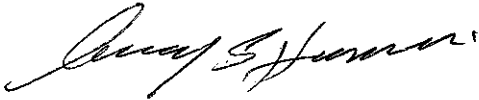
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To whom it may concern,

As owners of a 5 acre open lot on the west side of US-395, we consider this project to be an excellent opportunity for both residences and investors of Hesperia. It will provide a large number of jobs and generate a great income for the city. All this will help develop the infrastructure of the area and benefit all who have any stakes involved in the surrounding location.

Sincerely,

Hanna Hanna and George Hanna

A handwritten signature in cursive script, appearing to read "George Hanna".A handwritten signature in cursive script, appearing to read "Hanna Hanna".