

CALIFORNIA ENVIRONMENTAL QUALITY ACT STATEMENT OF FINDINGS

The Department of Toxic Substances Control (DTSC) has issued Findings for this project pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, Division 13, Section 21081) and implementing Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15091 et seq.)

A. PROJECT SUBJECT TO DTSC APPROVAL

PROJECT TITLE: Former Frito Lay Facility Removal Action Workplan		SITE CODING: 202367
PROJECT ADDRESS: 650 North King Road	CITY: San Jose	COUNTY: Santa Clara
PROJECT SPONSOR: BTC III SAN JOSE LOGISTICS CENTER LP	CONTACT: Mark English	PHONE/ EMAIL: 510-499-9013 mark.english@sevenbridgesprop.com
Approval Action Under Consideration by DTSC:		
<input checked="" type="checkbox"/> Removal Action Workplan <input type="checkbox"/> Interim Removal <input type="checkbox"/> Initial Permit Issuance <input type="checkbox"/> Permit Re-Issuance <input type="checkbox"/> Corrective Measure Study/Statement of Basis <input type="checkbox"/> Permit Modification <input type="checkbox"/> Closure Plan <input type="checkbox"/> Remedial Action Plan <input type="checkbox"/> Regulations <input type="checkbox"/> Other (specify):		
STATUTORY AUTHORITY:		
<input type="checkbox"/> California H&SC, Chap. 6.5 <input checked="" type="checkbox"/> California H&SC, Chap. 6.8 <input type="checkbox"/> Other (specify):		
PROJECT DESCRIPTION (List Specific Activities Proposed to be Undertaken):		
<p>The Department of Toxic Substances Control (DTSC) approved the Removal Action Workplan (RAW) for the Former Frito Lay Facility (Project Site). The Cleanup document, referred to as a RAW, summarized previous environmental investigations and concluded that the remediation of soil and soil vapor is required to protect human health and the environment. The RAW addressed the impacts of the chemical of concern identified as, lead and arsenic in soil, volatile organic compounds (VOCs), benzene, bromodichloromethane, bromoform, chloroform, methylene chloride, tetrachloroethene (PCE) and trichloroethene (TCE) in soil vapor.</p> <p>Project activities consist of installing a vapor intrusion mitigation system (VIMS) under the proposed warehouse industrial buildings to address VOCs in soil vapor, excavation and off-site disposal of soil contaminated with lead and arsenic, an Operation, Maintenance and Monitoring Plan (OM&M Plan) and recordation of a Land Use Covenant (LUC) which will prohibit residential or other sensitive land uses, implement an soil management in the event that future Site activities require breaching the building's concrete floor slab, implement OM&M Plan for the VIMS, and require non-interference with VIMS. The estimated volume of contaminated soil expected to be excavated and disposed off-site is approximately 1,500 cubic yards, require approximately 94 trips. over 3 weeks. The installation of the VIMS system will be concurrent with the Site redevelopment.</p> <p>City of San Jose 650 North King Road Industrial Project</p> <p>The City of San Jose circulated an Initial Study/Mitigated Negative Declaration (IS /MND) (State Clearinghouse Number 2021120434) for the 650 North King Road Industrial Project, also referenced as the Former Frito Lay Facility. The City of San Jose's project would demolish and remove the four existing building onsite and redevelop the property with a new 225,280 square feet (sf) warehouse industrial building. The maximum height of the building would be 45 feet and 6 inches. The project intends to redevelop the property as a modern industrial facility. While no end users have been identified, the building is programmed and designed to attract users such as logistics, e-commerce, warehouse/distribution, wholesaling, industrial services, and light to medium manufacturing. The development plan proposes approximately 27,000 square feet of manufacturing space and 198,2802 square feet of warehouse and mezzanine/office space, for a total of 225,280 square feet.</p>		

The IS/MND identified and analyzed the required Site remediation. Refer to Section 3.3 Project Description and Section 4.9 Hazards and Hazardous Materials. The IS/MND concluded mitigation measures were required for Air Quality, Biological Resources and Hazardous and Hazardous Materials. Refer to Attachment 1 – Mitigation Measures.

The City of San Jose approved the redevelopment project and certified the Initial Study and Mitigated Neg Declaration on February 16, 2022. The Notice of Determination was filed with the Santa Clara County Clerk Recorder’s office on February 23, 2022. DTSC will file a Notice of Determination with the Office of Planning and Research/State Clearinghouse after the RAW is approved.

The City of San Jose IS/MND can be accessed at the Office of Planning and Research/State Clearinghouse - <https://ceqanet.opr.ca.gov/2021120434>

B. LEAD AGENCY ENVIRONMENTAL DOCUMENT REVIEWED

Lead Agency: City of San Jose
Lead Agency’s Environmental Document: Initial Study/ Mitigated Neg Declaration
Date Certified: February 16, 2022
State Clearinghouse Number: 2021120434

C. STATEMENT OF FINDINGS AND FACTS FOR ADEQUACY OF LEAD AGENCY ENVIRONMENTAL DOCUMENT

Using its independent judgment, DTSC makes the following findings:

- The Lead Agency Final Environmental Document includes a description of the Project now before DTSC for decision
- The Lead Agency Final Environmental Document adequately analyzed impacts associated with the Project before DTSC for decision.
- DTSC concurs with the findings made by the Lead Agency Final Environmental Document relating to the Project before DTSC for decision.
- Mitigation measures are included in the Lead Agency Final Environmental Document for the following resources that would potentially be affected by the DTSC project.

<input type="checkbox"/> Aesthetics	Mitigation Measure: None
<input type="checkbox"/> Agricultural Resources	Mitigation Measure: None

<input checked="" type="checkbox"/> Air Quality	Mitigation Measure: See Attachment 1
<input type="checkbox"/> Agricultural Resources	Mitigation Measure: None
<input checked="" type="checkbox"/> Biological Resources	Mitigation Measure: See Attachment 1
<input type="checkbox"/> Cultural Resources	Mitigation Measure: None
<input type="checkbox"/> Energy	Mitigation Measure: None
<input type="checkbox"/> Geology / Soils	Mitigation Measure: None
<input type="checkbox"/> Greenhouse Gas Emissions	Mitigation Measure: None
<input checked="" type="checkbox"/> Hazards / Hazardous Materials	Mitigation Measures: See Attachment 1
<input type="checkbox"/> Hydrology / Water Quality	Mitigation Measure: None
<input type="checkbox"/> Land Use / Planning	Mitigation Measure: None
<input type="checkbox"/> Mineral Resources	Mitigation Measure: None
<input type="checkbox"/> Noise	Mitigation Measure: None
<input type="checkbox"/> Population / Housing	Mitigation Measure: None
<input type="checkbox"/> Public Services	Mitigation Measure: None
<input type="checkbox"/> Recreation	Mitigation Measure: None
<input type="checkbox"/> Transportation / Traffic	Mitigation Measure: None
<input type="checkbox"/> Tribal Cultural Resources	Mitigation Measure: None
<input type="checkbox"/> Utilities / Service Systems	Mitigation Measure: None
<input type="checkbox"/> Wildfire	Mitigation Measure: None

Mitigation measures identified in the Lead Agency Final Environmental Document have been adopted by DTSC for this Project and will be implemented to avoid, reduce, or substantially lessen the project impacts. No additional mitigation measures are necessary, and no additional mitigation monitoring plan is required pursuant to CEQA.

For each significant environmental effect identified for the Project:

- Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects as identified in the Lead Agency Final Environmental Document.
- Such changes or alterations are within the responsibility and jurisdiction of the City of San Jose not DTSC.
- Such changes have been adopted by this public agency or can and should be adopted by this public agency.

Mitigation measures included in the Lead Agency Final Environmental Document are infeasible, and therefore, will not be incorporated into the DTSC Project for the following reasons: N/A

BASED ON THE ABOVE FINDINGS, DTSC CONCLUDES:

The proposed Project will not result in significant and unavoidable effects to the environment.

The proposed Project will result in significant and unavoidable effects to the following environmental resources:

<input type="checkbox"/> Air Quality <input type="checkbox"/> Agricultural Resources <input type="checkbox"/> Biological Resources <input type="checkbox"/> Cultural Resources <input type="checkbox"/> Energy <input type="checkbox"/> Geology/ Soils <input type="checkbox"/> Greenhouse Gas Emissions <input type="checkbox"/> Hazards/Hazardous Materials <input type="checkbox"/> Hydrology/ Water Quality	<input type="checkbox"/> Mineral Resources <input type="checkbox"/> Noise <input type="checkbox"/> Population/Housing <input type="checkbox"/> Public Services <input type="checkbox"/> Recreation <input type="checkbox"/> Transportation/Traffic <input type="checkbox"/> Tribal Cultural Resources <input type="checkbox"/> Utilities/ Service Systems <input type="checkbox"/> Wildfire
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Impacts to these resources would remain significant even after applying mitigation measures described in the Lead Agency Final Environmental Document, or there is no feasible mitigation available.

In accordance with Cal. Code of Regs., title 14, section 15093, a Statement of Overriding Considerations was adopted by the Lead Agency for these resources. DTSC adopts a Statement of Overriding Considerations for these resources having determined that the DTSC Project benefits outweigh the significant environmental effects for the following reasons: The DTSC remedial actions reduce the exposure of contaminated soil, soil gas, and groundwater in order to render it safe for Site occupants. The DTSC remedial project also serves to protect human health and the environment, which are DTSC's responsibilities under the California Health and Safety Code.

None of the conditions requiring a subsequent EIR or Negative Declaration pursuant to Cal. Code Regs., tit. 14 Section 15162 exist.

In accordance with Cal. Code of Regs., title 14, section 15093, a Notice of Determination indicating the results of said Findings will be filed with the Governor's Office of Planning and Research / State Clearinghouse.

D. CERTIFICATION

Jrandeni

<hr/>		4/11/2022
Project Manager's Signature		Date
<u>JAYANTHA RANDENI</u>	<u>SENIOR HAZARDOUS SUBSTANCES ENGINEER</u>	<hr/>
Project Manager's Name	Title	Phone #

Juliet C. Pettijohn

<hr/>		04/11/2022
Branch Chief's Signature		Date
<u>Juliet C. Pettijohn</u>	<u>Environmental Program Manager I/Branch Chief</u>	<u>510-516-5894</u>
Branch Chief's Name	Title	Phone #

ATTACHMENT 1
650 North King Road Industrial Project
Mitigation Measures

Mitigation measures identified in the Lead Agency Final Environmental Document have been adopted by DTSC for this Project and will be implemented to avoid, reduce, or substantially lessen the project impacts. No additional mitigation measures are necessary, and no additional mitigation monitoring plan is required pursuant to CEQA.

C- Air Quality:

Impact AQ-1: Project construction would temporarily exceed BAAQMD threshold limits for PM_{2.5}. Unmitigated, the project could produce up to 0.42 µg/m³, which would exceed the BAAQMD threshold of 0.3 µg/m³. The highest calculated unmitigated carcinogenic risk from project construction would be 26.15 per million. Unmitigated, the carcinogenic risk from project construction would exceed the BAAQMD threshold of 10 in one million.

MM AQ-1: Prior to issuance of any demolition, grading permits, and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement or the Director's Designee. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- For all construction equipment larger than 25 horsepower operating on the site for more than two days continuously or 20 total hours, shall, at a minimum meet U.S. EPA Tier 4 Final emission standards.
- If Tier 4 Final equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust and 40 percent reduction in NO_x in comparison to uncontrolled equipment.

The project applicant shall submit a construction operations plan prepared by the construction contractor that outlines how the contractor will achieve the measures outlined in this mitigation measure. The plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval prior to the issuance of any demolition, grading and/or building permits (whichever occurs earliest). The plan shall include, but not be limited to the following:

- List of activities and estimated timing.
- Equipment that would be used for each activity.
- Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meet the thresholds in the mitigation measure.
- How the construction contractor will ensure that the measures listed are monitored.
- How the construction contractor will remedy any exceedance of the thresholds.
- How often and the method the construction contractor will use to report compliance with this mitigation measure.

D- BIOLOGICAL RESOURCES:

Impact BIO-1: Construction activities on the project site could impede the movement of nesting raptors or other migratory birds.

MM BIO-1: Avoidance: Prior to the issuance of demolition, grading, tree removal or building permits (whichever occurs first), the project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.

Nesting Bird Surveys: If demolition and construction activities cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to

ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of breeding season (May 1st through August 31st inclusive). During this survey the ornithologist shall inspect all trees and other possible nesting habitats within 250 feet of the construction areas for nests.

Buffer Zones: If an active nest is found within 250 feet of the work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

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

I. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: The project site is on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and has a history of leaking underground storage tanks (LUSTs), associated soil vapor where minimal levels of petroleum hydrocarbons have been identified in subsurface soils. Elevated concentrations of arsenic and lead were also identified in the area of the former railroad spur and railroad right of way. While these LUSTs have since been remediated and closed, project implementation may encounter residual concentrations of contaminants in soil and groundwater due to the site's past uses that exceed environmental screening levels and could expose construction workers, employees, neighboring uses, and the environment to hazardous materials.

MM HAZ-1: Prior to issuance of any grading permits, the project applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) under their Site Cleanup Program, or the Department of Toxic Substances Control (DTSC) to mitigate the contaminants found during the environmental investigations. A Site Management Plan (SMP), Removal Action Workplan (RAW), or equivalent document must be prepared by a qualified hazardous materials consultant under oversight and approval with the SCCDEH or DTSC. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.