

## Sanitary Sewer Condition Assessment Repairs – Package 1 Initial Study & Proposed Mitigated Negative Declaration Consideration of Comments

### CEQA Requirements

One of the primary purposes of the California Environmental Quality Act (CEQA) is enabling the public and other interested agencies to review and comment on projects proposed or approved by public agencies. To that end, following circulation of a CEQA document for public comment, the CEQA statute and the state's *CEQA Guidelines* require the lead agency (i.e., the agency approving and/or carrying out the project; in this case the City of Santa Clara) to consider the comments received prior to approving the project (California Public Resources Code 21091[d][1], 20191[f]; *CEQA Guidelines* 15074).

Lead agencies must respond formally to comments on an Environmental Impact Report (EIR) (California Public Resources Code 21091[d][2], *CEQA Guidelines* 15088). If the circulated document is an Initial Study (IS) and the lead agency intends to adopt a Negative Declaration (ND) or a Mitigated Negative Declaration (MND), there is no "affirmative duty" for the lead agency to prepare formal responses to comments (e.g., Bass et al. 1999). However, the lead agency must "consider" the proposed ND or MND "together with any comments received during the public review process" and may adopt the ND or MND (and approve the project) only if it finds on the basis of the whole of the record before it—including the IS and any comments received—that there is no substantial evidence the project would have a significant effect on the environment (*CEQA Guidelines* 15074[b]). If, again based on the whole of the record, a fair argument<sup>1</sup> can be made that the project would have a significant impact on the environment, more extensive analysis is required, in the form of an EIR (*CEQA Guidelines* 15964[a][1]).

### Background

In December 2022 – January 2023, the City of Santa Clara (City) Public Works Department circulated an IS (State Clearinghouse # 2022120288, <https://ceqanet.opr.ca.gov/2022120288>) analyzing the environmental effects of five projects proposed to repair high-priority defects identified through the City's routine program of sanitary sewer system condition assessments.<sup>2</sup> The repairs included the following.

- At repair Segment 100, in Mathew Street west of De La Cruz Boulevard: removing 166 linear feet (LF) of existing 18-inch-diameter VCP sewer line and replacing it with 18-inch-diameter polyvinyl chloride

<sup>1</sup> The "fair argument standard" is laid out in *CEQA Guidelines* 15384, which emphasizes the need for "substantial information," defined as "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts."

<sup>2</sup> The remainder of the Package 1 repairs were found to qualify for one or more CEQA exemptions; the IS/MND addressed only the repairs found not to qualify (see Redtail Consulting 2021a, 2021b; Abbe pers. comm.; City of Santa Clara 2022).

(PVC) sewer line; removing and replace sanitary sewer manhole (SSMH) 57-35 at west terminus of Segment

- At repair Segment 231, crossing Lafayette Street southwest of the City's Eastside Retention Basin: installing 278 LF of cured-in-place-pipe (CIPP) lining in existing 42-inch-diameter reinforced concrete pipe (RCP) sewer line; replacing cones of SSMH 114-14 and SSMH 114-23 at termini of Segment
- At repair Segment 232, in Lafayette Street, extending south from west terminus of Segment 231: installing 437 LF of CIPP lining in existing 42-inch-diameter RCP sewer line; replacing cone of SSMH 104-9 at south terminus of Segment
- At repair Segment 233, in Lafayette Street immediately south of Segment 232: installing 491 LF of CIPP lining in existing 42-inch-diameter RCP sewer line; replacing cone of SSMH 104-15 at south terminus of Segment
- At Segment 242, Lafayette Street between Calle del Mundo and the PAL BMX track facility: installing 430 LF of CIPP lining in existing 42-inch-diameter RCP sewer line; replacing cones of SSMH 104-17 and SSMH 104-22 at termini of Segment

The IS/MND circulation period began on December 14, 2022 and concluded on January 13, 2023.

Based on analysis in the IS, and having considered the comments received during circulation of the IS, the City now proposes to adopt an MND. The MND reflects the City's finding that with incorporation of the Avoidance and Minimization Measures included in the projects (discussed in Section 2 of the IS) and the mitigation measures identified in the IS analysis, the projects would not result in any Significant adverse effects on the environment. The Proposed MND was also circulated for public review, as an Appendix to the IS.

## Consideration of Comments

The IS and the Notice of Intent published by the City as required by *CEQA Guidelines* Section 15072 provided both postal and email addresses where comments could be sent. Only one comment communication—from Valley Water, transmitted via email—was received during the IS circulation period, and as of February 9, 2023 no late comments have been received.

Table 1 itemizes the comments in Valley Water's email and considers each comment in detail. The original comment email is presented in Appendix A; individual comments are numbered and keyed to discussion in Table 1. Valley Water's comments included one that addressed IS content, and two that were informational in nature.

### Comment on IS Content: Potential for Pollutant Releases Due to Flooding

Valley Water's primary comment (Comment 1-1 in Appendix A) was that analysis of *Potential for Release of Pollutants Due to Flood, Tsunami, or Seiche Inundation* beginning on IS page 3-66 omits discussion of flood inundation. This is correct, and that analysis is provided in detail in Table 1 and summarized below.

As Table 1 discusses in more detail, all of the proposed repair Segments are located within flood hazard zones. Segment 100 is entirely within Flood Zone X (Area with Reduced Flood Risk Due to Levee) (shaded), which is considered a moderate flood hazard area since it lies outside the 100-year flood inundation area but within the 500-year flood limit (Federal Emergency Management Agency 2020). Zones AO and AH are within the 100-year

**Table 1. Consideration of Comments**

Comment #	Comment	Discussion
<p><b>1: Email from Matt Sasaki, Assistant Engineer II, Valley Water (01/13/2023)</b></p>		
<p>1-1</p>	<p>The discussion on Potential for Releases of Pollutants Due to Flood, Tsunami, or Seiche Inundation on page 3-66 discusses the potential release of pollutants due to tsunami, mudflows, and seiche. There is not [sic] discussion of releases due to floods. Please update the discussion to address release of pollutants due to floods. According to the Federal Emergency Management Agency (FEMA) Flood Insurance Map (FIRM) Panel 060085C0227H, Segment 100 is located in Zone X, an area with a reduced flood risk due to a levee. According to FEMA FIRM Panel 06085C0061H, portions of segments 231, 232, 233, and 242 are in Zone X (an area with reduced flood risk due to a levee), Zone AH (a special flood hazard area with a flood depth of 5 feet), and Zone AO (a special flood hazard area with a flood depth of 1 foot).</p>	<p>The commenter is correct. In more detail, FEMA’s online National Flood Hazard Layer (NFHL) Viewer (Federal Emergency Management Agency <i>n.d.</i>) shows the following.</p> <ul style="list-style-type: none"> <li>• Segment 100 is located entirely within Flood Zone X (Area with Reduced Flood Risk Due to Levee) (shaded)</li> <li>• The east terminus of Segment 231 is located in an area of Zone AH (EL 6) around the City’s Eastside Retention Basin; to the west, it crosses an area in Zone X along Lafayette Street and a narrow area of Zone AO (DEPTH 1), terminating within Zone AH (EL 6)</li> <li>• The north portion of Segment 232 is within Zone AH (EL 6); the remainder of the Segment, where it enters the Lafayette Street corridor, is within Zone Zone AO (DEPTH 1)</li> <li>• Segments 233 and 242 are entirely within an area of Zone AO (DEPTH 1) along the Lafayette Street corridor</li> </ul> <p>Zones AO and AH are within what FEMA refers to as the Special Flood Hazard Area—that is, the area inundated by the flood event that has a 1% chance of being equaled or exceeded in a given year, sometimes referred to as the 100-year flood. Zone X (shaded) is considered a moderate flood hazard area since it lies outside the Special Flood Hazard Area but is within the inundation limits of the flood event that has an 0.2% chance of occurring in any given year (the 500-year flood) (Federal Emergency Management Agency 2020). Consequently, all 5 repair Segments are considered to be at some, albeit very low, risk of flooding.</p> <p><u>Construction Period</u>            During construction, the risk of pollutant releases as a result of flooding relates to:</p> <ol style="list-style-type: none"> <li>(1) the potential for substances routinely used during construction—such as fuels, lubricants, and paving and striping media—to be spilled, entrained, and remobilized by floodwaters; and</li> <li>(2) particularly at Segment 100, where a known contaminant plume extends into the roadway and could be encountered during trench excavation (City of Santa Clara 2022), the potential for remobilization of contaminants present in soil and/or groundwater due to flood erosion of the exposed substrate</li> </ol>

**Comment #    Comment**

**Discussion**

However, the potential for flooding to occur during construction at any of the Segments is considered very low, based on FEMA flood hazard mapping and the fact that construction at each Segment would be of short duration, as follows (see City of Santa Clara 2022, Table 2-4).

- Segment 100: 10 days maximum
- Segments 231 – 233: 10 days maximum for all three Segments
- Segment 242: 4 days maximum

Moreover, construction would likely be scheduled during the dry months of the year when protracted heavy rainfall and flooding are least likely.

In addition, although contractors are generally required to make every effort to continue work in inclement weather to avoid project delays, the City's Standard Specifications (Section 15.2 F – G) allow rainfall in excess of 0.1 inch per day as a cause of construction delays and schedule extensions, subject to certain limitations. This would reduce the impetus to continue work when flooding is likely—for instance in prolonged storm sequences such as those of early 2023. The Standard Specifications also require contractors to provide for site drainage and protect the work area from erosion (Section 1.11), and to provide "methods, means, and facilities ... to prevent contamination of soil [and] water" by construction-related pollutants (Section 1.12).

In view of all these factors, the potential for pollutant releases due to flood inundation during construction is evaluated as Less than Significant. No mitigation is required, and no further analysis is warranted at the project-specific level.

A Significant cumulative impact with regard to the potential for pollutant releases during flooding could be argued to exist throughout the City—and the Santa Clara Valley in general—as a result of pervasive urbanization. However, the same factors that reduce the localized, project-specific potential for impacts to a Less than Significant level would also reduce potential construction-related contributions to any such cumulative impact to a Less than Cumulatively Considerable level. No mitigation is required, and no further analysis is warranted at the cumulative level.

Long Term

None of the proposed repairs would add new above-grade facilities, and over the long term, as discussed on IS page 3-67 for seiche hazards, they would substantially improve the integrity of existing sewer infrastructure. Consequently, there would be No Impact with regard to increased potential for pollutant releases

Comment #	Comment	Discussion
		<p>due to flood inundation over the long term. If anything, by improving sewer pipeline and manhole integrity, the proposed repairs would decrease the likelihood of damage resulting in sewage releases under flood conditions. This would represent a Beneficial Impact. The reduced need for future maintenance (with associated potential for pollutant releases during flooding) would also represent a Benefit. No mitigation is required, and no further analysis is warranted at the project-specific level.</p> <p>The same factors would apply at the cumulative level. Overall, the increase in sewer and manhole integrity would reduce the potential for flooding-related sewage releases, and the decreased need for future maintenance would similarly reduce the potential for flooding-related pollutant releases during future repairs. Contributions to any cumulative impact related to release of pollutants due to flooding is accordingly evaluated as Less than Cumulatively Considerable, with a Benefit anticipated. No mitigation is required, and no further analysis is warranted at the cumulative level.</p>
1-2	Valley Water does not have any right of way or facilities at the project sites; therefore in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water encroachment permit is not required for the proposed improvements.	Comment noted. This comment does not bear on the content or adequacy of the IS. Please note that permits and approvals required to implement the proposed projects are discussed on page 1-4 of the IS, which identifies that all five projects are outside Valley Water's rights-of-way. No further discussion or analysis is warranted.
1-3	We appreciate the opportunity to review and comment on the Initial Study and Proposed MND for the Sanitary Sewer Condition Assessment Repairs – Package 1 Project. If you have any questions, please contact Matt Sasaki at (408) 630-3776 or <a href="mailto:msasaki@valleywater.org">msasaki@valleywater.org</a> . Please reference File# 33804 on future correspondence regarding this project.	Comment noted. This comment does not bear on the content or adequacy of the IS. No further analysis is warranted.



flood inundation area. As a result, all of the repair Segments are considered to be subject to some degree of flood hazard, although the risk is statistically quite low.

### Project-Specific Impacts

As noted above, the risk of flooding at the repair Segments is low. The likelihood of inundation during construction is even lower, since construction at each Segment would be quite short-term (less than 10 days maximum at Segment 100, and substantially shorter at each of the other Segments), and construction would likely be scheduled during the dry months of the year, when protracted heavy rainfall and flooding are least likely. Additionally, although contractors are required to make every effort to continue work in inclement weather to avoid project delays, the City's Standard Specifications (Section 15.2 F – G) allow rainfall in excess of 0.1 inch per day as a cause schedule extensions, subject to certain limitations. This would reduce the impetus to continue work when flooding is likely—for instance in prolonged storm sequences such as those of early 2023. The Standard Specifications also require contractors to provide for site drainage and protect the work area from erosion (Section 1.11), and to provide "methods, means, and facilities ... to prevent contamination of soil [and] water" by construction-related pollutants (Section 1.12). In view of all these factors, the potential for pollutant releases due to flood inundation during construction is evaluated as Less than Significant. No mitigation is required, and no further analysis is warranted at the project-specific level.

Over the long term, none of the proposed repairs would add new above-grade facilities, and all would substantially improve the integrity of existing sewer infrastructure. Consequently, over the long term there would be No Impact with regard to increased potential for pollutant releases due to flood inundation. Rather, by improving sewer integrity, the proposed repairs would decrease the likelihood of damage resulting in sewage releases as a result of flooding, representing a Beneficial Impact. No mitigation is required, and no further analysis is warranted as a result of this comment.

### Cumulative Impacts

As Table 1 notes, a Significant cumulative impact with regard to the potential for pollutant releases due to flooding could be argued to exist throughout the City and the Santa Clara Valley in general. During construction the same factors that reduce the localized, project-specific potential for impacts to a Less than Significant level would also reduce potential construction-related contributions to the cumulative risk to a Less than Cumulatively Considerable level. Over the long term, increased sewer and manhole integrity would reduce the potential for flooding-related sewage releases, and the decreased need for future maintenance would similarly reduce the potential for flooding-related pollutant releases during future repairs. Long-term contributions to any cumulative impact related to release of pollutants due to flooding are therefore also evaluated as Less than Cumulatively Considerable, with a Benefit anticipated. No mitigation is required, and no further analysis is warranted at the cumulative level.

### Informational Comments

Valley Water also commented (Comment 1-2 in Appendix A) that it has no facilities or right-of-way at the proposed work sites and that the projects would therefore not require Valley Water encroachment permitting. Permits and approvals required to implement the proposed projects are discussed on page 1-4 of the IS, which identifies that all five projects are outside Valley Water's rights-of-way. Valley Water's last comment (Comment 1-3 in Appendix A) provided contact information for follow-up questions. These informational comments are helpful, and because neither directly addresses the adequacy of the IS, they do not warrant further discussion or analysis.

## Conclusion

In view of the considerations summarized above and presented in more detail in Table 1, Valley Water's comments do not present information rising to the level of fair argument that an undisclosed Significant impact would occur. No further analysis is warranted at either the project-specific or the cumulative level as a result of any of these comments.

## References Cited

- Abbe, A. (City of Santa Clara, City Attorney's Office). Pers. comm. Email to Falguni Amin and Vincent Luchessi (City of Santa Clara, Department of Public Works). February 17, 2022. On file with Redtail Consulting.
- Bass, R.E, Herson, A.I., and Bodgan, K.M., 1999, *CEQA Deskbook: a Step-by-Step Guide on How to Comply with the California Environmental Quality Act* (2<sup>nd</sup> edition); Solano Press Books, Point Arena, CA.
- City of Santa Clara. 2022. Sanitary Sewer Condition Assessment Repairs – Package 1 Initial Study and Proposed Mitigated Negative Declaration. (December.) Santa Clara, CA. Prepared for the City of Santa Clara Public Works Department by Redtail Consulting, Fremont, CA. Available: <https://ceqanet.opr.ca.gov/2022120288>.
- Federal Emergency Management Agency. *n.d.* National Flood Hazard Layer (NFHL) Viewer. Available: <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd&extent=-121.94965689392994,37.36209724087428,-121.9452205202187,37.36422907388417>. Accessed: January 2023.
- Federal Emergency Management Agency. 2020. Flood Zones. (Last updated July 8). Available: <https://www.fema.gov/glossary/flood-zones>. Accessed: January 2023.
- Redtail Consulting. 2021a. Annual Sanitary Sewer Repairs 2021, 2022, & 2023 Projects – 2021 Construction Package Statutory Exemption Screening. (September.) Prepared for Mott MacDonald, San José, CA and City of Santa Clara. Fremont, CA.
- Redtail Consulting. 2021b. Annual Sanitary Sewer Repairs 2021, 2022, & 2023 Projects – 2021 Construction Package Categorical Exemption Screening. (October.) Prepared for Mott MacDonald, San José, CA and City of Santa Clara. Fremont, CA.

# Appendix A

## Sanitary Sewer Condition Assessment Repairs – Package 1 Initial Study & Proposed Mitigated Negative Declaration Public & Agency Comments



**FW: Notice of Availability: Initial Study/Mitigated Negative Declaration**

1 message

**Vincent Luchessi** <VLuchessi@santaclaraca.gov>

Tue, Jan 17, 2023 at 12:50 PM

To: Anna Busing &lt;annab@redtail-ec.com&gt;, "Crawford, Renee" &lt;Renee.Crawford@mottmac.com&gt;

Cc: Jane Hou &lt;Jane.Hou@mottmac.com&gt;

Hi Anna,

The comment period closed last Friday. Below is the only comment I received to date. I will monitor our mail boxes for any hard copy that that might come in over the next few days, but doubt there will be anything else.

With this - could you please look into the comment below.

Thanks,

**Vincent Luchessi** | Senior Civil Engineer

Public Works Department  
1500 Warburton Avenue | Santa Clara, CA 95050  
D: (408) 615-3012 | F: (408) 985-7936

[vluchessi@SantaClaraCA.gov](mailto:vluchessi@SantaClaraCA.gov)

**From:** Matthew Sasaki <MSasaki@valleywater.org>  
**Sent:** Friday, January 13, 2023 3:29 PM  
**To:** Vincent Luchessi <VLuchessi@SantaClaraCA.gov>  
**Subject:** RE: Notice of Availability: Initial Study/Mitigated Negative Declaration

Hi Vincent,

The Santa Clara Valley Water District (Valley Water) has reviewed the Notice of Availability for an Initial Study and Proposed Mitigated Negative Declaration (MND) for the Sanitary Sewer Condition Assessment Repairs – Package 1 Project, received on December 14, 2022. Based on our review, have the following comments:

1. The discussion on Potential for Releases of Pollutants Due to Flood, Tsunami, or Seiche Inundation on page 3-66 discusses the potential release of pollutants due to tsunami, mudflows, and seiche. There is not discussion of releases due to floods. Please update the discussion to address release of pollutants due to floods. According to the Federal Emergency Management Agency (FEMA) Flood Insurance Map (FIRM) Panel 060085C0227H, Segment 100 is located in Zone X, an area with a reduced flood risk due to a levee. According to FEMA FIRM Panel 06085C0061H, portions of segments 231, 232, 233, and 242 are in Zone X (an area with reduced flood risk due to a levee), Zone AH (a special flood hazard area with a flood depth of 5 feet), and Zone AO (a special flood hazard area with a flood depth of 1 foot).
2. Valley Water does not have any right of way or facilities at the project sites; therefore in accordance with Valley Water's Water Resources Protection Ordinance, a Valley Water encroachment permit is not required for the proposed improvements.

We appreciate the opportunity to review and comment on the Initial Study and Proposed MND for the Sanitary Sewer Condition Assessment Repairs – Package 1 Project. If you have any questions, please contact Matt Sasaki at (408) 630-3776 or [msasaki@valleywater.org](mailto:msasaki@valleywater.org). Please reference File# 33804 on future correspondence regarding this project.

Thank you,

**MATT SASAKI**

Pronouns: he/him

Assistant Engineer II

Community Projects Review Unit

[msasaki@valleywater.org](mailto:msasaki@valleywater.org)

Tel. (408) 630-3776

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

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[www.valleywater.org](http://www.valleywater.org)

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**From:** Vincent Luchessi <[VLuchessi@SantaClaraCA.gov](mailto:VLuchessi@SantaClaraCA.gov)>  
**Sent:** Wednesday, December 14, 2022 12:29 PM  
**To:** Vincent Luchessi <[VLuchessi@SantaClaraCA.gov](mailto:VLuchessi@SantaClaraCA.gov)>  
**Subject:** Notice of Availability: Initial Study/Mitigated Negative Declaration

**\*\*\* This email originated from outside of Valley Water. Do not click links or open attachments unless you recognize the sender and know the content is safe. \*\*\***

Good Afternoon,

You are receiving this e-mail because your e-mail contact information is on the City of Santa Clara's distribution list for CEQA reviews.

Please find attached a Notice of Availability for an Initial Study and Proposed Mitigated Negative Declaration for the [Sanitary Sewer Condition Assessment Repairs – Package 1 Project](#).

Sincerely,

**Vincent Luchessi** | Senior Civil Engineer

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1500 Warburton Avenue | Santa Clara, CA 95050  
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