



**Planning & Community Development**  
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**Mitigated Determination of Non-significance (MDNS)**  
**RCW 197-11-350 & SMC 18.04.120**  
**Revised March 22, 2024**

1. **Description of Proposal:** Pacific Ag has proposed development of an approximately 50-acre digester within the Port of Sunnyside's (the "Port") Midvale Industrial Park in the Heavy Industrial (M- 2) zoning district.
2. **Property Owners:** Sunnyside RNG, LLC  
1000 S. Hwy 395, Suite A506  
Hermiston, OR 97838
3. **Location of Proposal:** Vicinity of 2711 and 334 Sunnyside Mabton Highway.
4. **Parcel Number(s):** 220901-41405 & 220901-41406 (Previously Parcel Numbers: 220901-13001, -44401, & -41404)
5. **Lead Agency:** City of Sunnyside
6. **File Number:** 2023-0200 (2022-0200)
7. **Findings:**
  - A. An Initial Notice of Application was sent to SEPA Agencies and Applicants within 300 feet of the site on May 17, 2023.
  - B. The site was posted with a Land Use Action Sign on May 17, 2023.
  - C. An MDNS was initially issued on June 22, 2023.
  - D. A Notice of SEPA Addendum was issued on November 20, 2023, with an additional comment period, which ended on December 5, 2023, which included an additional notice to parties of record, property owners within 300 feet, and a notice to the Sunnyside Sun.
  - E. The applicant submitted additional information and a SEPA Addendum was issued on November 28, 2023.
  - F. The City issued an additional SEPA notice and comment period on December 13, 2023, ending on December 27, 2023, to all existing parties of record, property owners within 300 feet of the site, and within the Sunnyside Sun.
  - G. The Sunnyside Sun produced an additional article on the proposed project on December 13, 2023.

H. All comments received during the various comment periods have been incorporated into this determination.

### **AGENCY COMMENTS**

A. The Department of Archaeology and Historic Preservation (DAHP) provided comments expressing concern and requesting conditions for an inadvertent discovery plan be established prior to the issuance of building permits.

*Staff Response – a condition for an Inadvertent Discovery Plan has been added as a condition to the MDNS. The applicant has completed a cultural resources survey for the site, which has been reviewed by City staff and submitted to DAHP.*

B. The Washington State Department of Ecology provided the following comments “Water Quality - Project with Potential to Discharge Off-Site If your project anticipates disturbing ground with the potential for stormwater discharge off-site, the NPDES Construction Stormwater General Permit is recommended. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit may take 38-60 days.

The permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

In the event that an unpermitted Stormwater discharge does occur off-site, it is a violation of Chapter 90.48 RCW, Water Pollution Control and is subject to enforcement action.

Solid Waste Management - This project involves a solid waste handling facility that is regulated under WAC 173-350. Please contact your local County Health Department to find out what requirements pertain to the project, and whether a solid waste permit is required. If you believe your facility meets the criteria for permit exemption from WAC 173-350, please fill out a notice of intent form and submit it to Ecology.”

*Staff Response - The proposed development shall work with the Washington State Department of Ecology and acquire all necessary permits for development prior to the issuance of a City of Sunnyside development permits being issued. The applicant shall apply for all necessary Department of Ecology permits, including Stormwater Pollution Prevention, Solid Waste, and any other Ecology shall require. This condition has been incorporated into the MDNS.*

C. Sunnyside Valley Irrigation District (SVID) provided the following Comments:

This office has reviewed the proposed project. Sunnyside Valley Irrigation District (SVID) has the following comments:

- SVID DR 3 drainage pipeline is located along the west and south boundaries of the project area. There is also an SVID flowmeter delivery assembly in the northeast corner, adjacent to Sunnyside Mabton Hwy. An SVID Crossing/Encroachment Permit will be required for any work within the SVID easement.
- The Port of Sunnyside has been in contact with SVID, and is working with us regarding SVID facilities within the project area.

*Staff Response – The applicant and property owner shall coordinate work with SVID, and obtain any permits SVID requires.*

D. The Washington State Department of Transportation provided the following comments:

“The subject project is adjacent to State Route 241 (SR 241), a Class 2 managed access highway with a posted speed limit of 55 miles per hour. According to our records, the property has a permitted access at milepost (MP) 5.52, and three grandfathered approaches at MP 5.61, 5.71, and 5.75. As a condition of development approval, these approaches must be removed...

Any proposed lighting should be directed down towards the site, and away from SR 241.

All loads transported on WSDOT rights-of-way must be within the legal size and load limits or have a valid oversize and/or overweight permit.

It is the applicant’s responsibility to keep and maintain SR 241 free of debris.

*Staff Response - The proposed development shall maintain WSDOT right-of-way. Additionally, as part of the proposed project, the applicant, City of Sunnyside, and Port of Sunnyside will be working collaboratively to install, improve, and expand right-of-way for the proposed vehicle traffic this development will cause. A traffic report is on file with the City of Sunnyside and has been reviewed by WSDOT.*

E. The Yakima Regional Clean Air Agency (YRCAA) submitted the following comments: Thank you for providing the Yakima Regional Clean Air Agency (YRCAA) the opportunity to review and comment on SEPA 2022.0200 for development of a digester on 50-acres within the Port of Sunnyside. Sunnyside, WA.

Following review YRCAA has the following comment(s):

- 1) A New Source Review (NSR) application must be submitted to YRCCA and an order of approval permit must be issued prior to the start of any work; and

- 2) Contractors doing demolition, excavation, clearing, construction, or landscaping work must file a Dust Control Plan with YRCAA and get approval, prior to the start of any work;

*Staff Response – The applicant shall submit a New Source Review Application to the YRCAA, and obtain all other necessary permits from the YRCAA prior to the issuance of any City of Sunnyside building permits. These requirements have been incorporated into the conditions of this determination.*

F. Pacific Power submitted the following comments:

- 1) The Utilities Section (#16) on page 13 states "A new 3.0 megawatt electric service is needed from Benton Rural Electrical Association." Pacific Power has not been provided information that allows us to validate the appropriate electrical service provider. We are happy to review site information in order to confirm the appropriate electrical service provider for this project.

*Staff Response – The applicant shall work with Pacific Power and obtain all required permits from Pacific Power. This condition has been incorporated into this MDNS.*

## **PUBLIC COMMENTS**

The City received comments from 32 public parties during the comment periods. The comments have been summarized below. A complete record of comments received are on file with the City of Sunnyside, and available upon request.

- A. Several Comments were submitted by Jean Mendoza, the contents of the comments had the following key points:
  - a. In a letter titled ‘Environmental Justice In Washington State: Is it Real, Or Does Washington EJ Just Look Good On Paper?’, Ms. Mendoza addressed people having the ability to participate in decision making and voicing community concerns. The paper also talks about the digester project described in the SEPA Application.
    - i. *Staff Response: Processing and recycling facilities for organic, fibrous, and other materials including anaerobic digesters and renewable natural gas processing and production facilities are considered a permitted use in the Light Industrial (M-1) and Heavy Industrial (M-2) zoning districts. In the City of Sunnyside, Permitted Uses undergo what is considered a Type I level review, which is found in SMC 19.01. Type I decisions are made by City Administration. The City of Sunnyside processes SEPA applications under the guidance of SMC Ch. 18.04 and WAC 197-11, complying with local and state law regarding environmental review and noticing.*
    - ii. *Notice of SEPA Applications are mailed out in accordance with SMC Ch. 18.04 and WAC 197-11. Under WAC 197.11 and SMC § 18.04.160.A, notice is provided whenever the City issues a declaration of nonsignificance under WAC 197-11-*

340(2) or a declaration of significance under WAC 197-11-360(3). The City shall give public notice as follows:

1. If public notice is required for a nonexempt license, the notice shall state whether a declaration of significance or declaration of nonsignificance has been issued and when comments are due.
2. If no public notice is required for the permit or approval, the City shall give notice of the declaration of nonsignificance or declaration of significance by:
  - a. Posting the property, for site-specific proposals; and/or
  - b. Publishing notice in a newspaper of general circulation in the County, City or general area where the proposal is located.

3. Under WAC 197-11-510:

1) When these rules require notice to be given under this section, the lead agency must use reasonable methods to inform the public and other agencies that an environmental document is being prepared or is available and that public hearing(s), if any, will be held. The agency may use its existing notice procedures. Examples of reasonable methods to inform the public are:

- a. Posting the property, for site-specific proposals;
- b. Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;
- c. Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- d. Notifying the news media;
- e. Placing notices in appropriate regional, neighborhood, ethnic, or trade journals;
- f. Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals or subject areas); and/or
- g. Mailing or emailing notice to any person, group or agency who has requested notice.

2) Each agency shall specify its method of public notice in its SEPA procedures, WAC 197-11-904 and 197-11-906. If an agency does not specify its method of public notice or does not adopt SEPA procedures, the agency shall use methods (a) and (b) in subsection (1).

3) Documents which are required to be sent to the department of ecology under these rules will be published in the SEPA register, which will also constitute a form of public notice. However, publication in the SEPA register shall not, in itself, meet compliance with this section.

- iii. *The City initially issued a Notice of Application to neighbors within 300 feet of the site and posted the site with a land use action sign on May 17, 2023;*
- iv. *The City issued a MDNS on June 22, 2023;*
- v. *The City received updated information from the applicant and the City issued a Notice of SEPA Addendum to all SEPA Agencies, parties of record, and residents within 300 feet of the site, on November 28, 2023, and an additional comment period until December 5, 2023;*
- vi. *After some additional questions from the community, the City mailed out another SEPA Notice of Application & Addendum Request for Public Comments on December 13, 2023 to December 27, 2023. Legal Notice was mailed to the Sunnyside Sun, the site has been posted with a land use action sign; Notices were mailed to neighbors within 300 feet of the site and parties of record. Additionally SEPA Agencies and parties of record with an email on file were sent additional notice.*

*All comments received during the various noticing periods have been considered and included in this final revised MDNS. Additionally, there was a typo in one of the notices that was mailed and all comments received referencing SEPA-2022-0200 & 2023-0200 have been included in the revised MDNS.*

- b. Ms. Mendoza submitted a document titled ‘Comments re Addendum to Sunnyside Renewable Natural Gas (SS RNG) SEPA document.’ This letter addresses potential missing information in the SEPA Addendum. The comments request that the City refrain from making any additional decisions until more information is acquired. The comments also talk about the City not processing the SEPA Application to its fullest extent.
  - i. *Staff Response: Comments have been received from the YRCAA and have been incorporated into this report. The applicant will be required to submit materials for a New Source Review with the YRCAA. The applicant has provided a 119 page document titled ‘New Source Review Application Supporting Information Report Sunnyside RNG LLC Proposed Renewable Natural Gas Facility Yakima County, Washington’. This document will be required to be provided to the YRCAA prior to the issuance of any building permits. In addition, the applicant will be required to complete the New Source Review process with the YRCAA prior to the issuance of any City Building Permits.*
  - ii. *WAC 197-11-350 – The purpose of this section is to allow clarifications or changes to a proposal prior to making the threshold determination.*

1. *In making threshold determinations, an agency may consider mitigation measures that the agency or applicant will implement.*
  2. *After submission of an environmental checklist and prior to the lead agency's threshold determination on a proposal, an applicant may ask the lead agency to indicate whether it is considering a DS. If the lead agency indicates a DS is likely, the applicant may clarify or change features of the proposal to mitigate the impacts which led the agency to consider a DS likely. The applicant shall revise the environmental checklist as may be necessary to describe the clarifications or changes. The lead agency shall make its threshold determination based upon the changed or clarified proposal. If a proposal continues to have a probable significant adverse environmental impact, even with mitigation measures, an EIS shall be prepared.*
  3. *Whether or not an applicant requests early notice under subsection (2), if the lead agency specifies mitigation measures on an applicant's proposal that would allow it to issue a DNS, and the proposal is clarified, changed, or conditioned to include those measures, the lead agency shall issue a DNS.*
  4. *Environmental documents need not be revised and resubmitted if the clarifications or changes are stated in writing in documents that are attachments to, or incorporate by reference, the documents previously submitted. An addendum may be used, see Part Six.*
  5. *Agencies may clarify or change features of their own proposal, and may specify mitigation measures in their DNSs, as a result of comments by other agencies or the public or as a result of additional agency planning.*
  6. *An agency's indication under this section that a DS appears likely shall not be construed as a determination of significance. Likewise, the preliminary discussion of clarifications or changes to a proposal shall not bind the lead agency to a mitigated DNS.*
  7. *Agencies may specify procedures for enforcement of mitigation measures in their agency SEPA procedures.*
- iii. *WAC 197-11-360 –*
1. *If the responsible official determines that a proposal may have a probable significant adverse environmental impact, the responsible official shall prepare and issue a determination of significance (DS) substantially in the form provided in WAC 197-11-980. The DS shall describe the main elements of the proposal, the location of the site, if a site-specific proposal, and the main areas the lead agency has*

*identified for discussion in the EIS. A copy of the environmental checklist may be attached.*

- 2. If an agency adopts another environmental document in support of a threshold determination (Part Six), the notice of adoption (WAC 197-11-965) and the DS shall be combined or attached to each other.*
- 3. The responsible official shall put the DS in the lead agency's file and shall commence scoping (WAC 197-11-408) by circulating copies of the DS to the applicant, agencies with jurisdiction and expertise, if any, affected tribes, and to the public. Notice shall be given under WAC 197-11-510. The lead agency is not required to scope if the agency is adopting another environmental document for the EIS or is preparing a supplemental EIS.*
- 4. If at any time after the issuance of a DS a proposal is changed so, in the judgment of the lead agency, there are no probable significant adverse environmental impacts, the DS shall be withdrawn and a DNS issued instead. The DNS shall be sent to all who commented on the DS. A proposal shall not be considered changed until all license applications for the proposal are revised to conform to the changes or other binding commitments made by agencies or by applicants.*

*iv. WAC 197-11-400 –*

- 1. The primary purpose of an environmental impact statement is to ensure that SEPA's policies are an integral part of the ongoing programs and actions of state and local government.*
- 2. An EIS shall provide impartial discussion of significant environmental impacts and shall inform decision makers and the public of reasonable alternatives, including mitigation measures, that would avoid or minimize adverse impacts or enhance environmental quality.*
- 3. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by the necessary environmental analysis. The purpose of an EIS is best served by short documents containing summaries of, or reference to, technical data and by avoiding excessively detailed and overly technical information. The volume of an EIS does not bear on its adequacy. Larger documents may even hinder the decision making process.*
- 4. The EIS process enables government agencies and interested citizens to review and comment on proposed government actions, including government approval of private projects and their environmental effects. This process is intended to assist the agencies and applicants to improve their plans and decisions, and to encourage the resolution of potential concerns or problems prior to issuing a final*



- statement. An environmental impact statement is more than a disclosure document. It shall be used by agency officials in conjunction with other relevant materials and considerations to plan actions and make decisions.*
- v. *The City has received specific comments from SEPA Agencies for permit requirements as they relate to the development of an anaerobic digester. Comments received from SEPA Agencies have been conditioned as part of this Revised MDNS.*
  - vi. *Much of the information requested by Ms. Mendoza is not information reviewed under the SEPA process, or part of the scope of permitting in general. This comment is requesting responses to the Traffic Impact Analysis (TIA) conducted. For feedback on TIAs, comments need to be sent to WSDOT. TIA requirements are analyzed through the City's Engineering and Development permits. The site will be developed with off-site street upgrades consistent with city requirements for such a facility.*
  - vii. *The comments discuss dairies receiving \$200 per cow for manure, the City has no input or authority over this.*
  - viii. *The comments discuss pathogens and the health of dairies. This threshold determination does not consider the impact of dairies that exist or are proposed outside of the City of Sunnyside. These projects will be reviewed by the jurisdictions within which they exist or are being proposed.*
  - ix. *The City of Sunnyside has no input or authority concerning whom private businesses work with and don't work with.*
  - x. *Pacific Ag will be required to obtain a New Source Review Permit with the YRCAA. Air monitoring will take place with the YRCAA, who is the Authority to work with business and require air monitoring sampling and ensuring industries to not exceed Washington State standards.*
  - xi. *Air monitoring will be reviewed during the New Source Review process and the Building Plan Review process. An Air Monitor and building alarms will be installed according to International Building Code and YRCAA regulations.*
  - xii. *The City does not regulate health and safety standards of private businesses, this would include the Pacific Ag Facility. This includes staff training, facility evacuation routes, fence line monitoring, etc.*
  - xiii. *Anaerobic Digesters are subject to local, state, and federal regulations that are not addressed by SEPA environmental review. This project will be regulated by those criteria, as well.*
- c. Ms. Mendoza submitted a letter to the City titled 'FOTC Comments Regarding the Sunnyside RNG Traffic Impact Analysis August 28, 2023'. The Comments submitted are generally

concerned with the traffic impacts from the traveling trucks and the amount of pollution those trucks would produce, in addition to the financial impact of the trucks on the surface of the streets.

*i. Staff Response: TIAs analyze the traffic burden on the surrounding street network. TIAs are analyzed by the City of Sunnyside and WSDOT, after review of the TIA, WSDOT and the City of Sunnyside make permitting decisions accordingly. The City regulates streets only within the City, and off street improvements are limited in scope. The City is not looking at traffic impacts on County roads in the surrounding regions. As part of this project, the applicant will be required to make street improvements to Highway 241, which is most directly impacted to the proposed development. Comments have been received by WSDOT and incorporated into the conditions of this determination.*

d. Ms. Mendoza and Friends of Toppenish Creek submitted additional comments titled ‘Please accept these additional comments from the Friends of Toppenish Creek regarding amendments to the City of Sunnyside mitigated determination of non-significance (MDNS) for the proposed Sunnyside Renewable Natural Gas (SS RNG) digester project - SEPA 2022-0200 or SEPA 2023.0200.’ The comments suggest that the project needs an Environmental Impact Statement (EIS). The comments in this document generally disagree with answers in the SEPA Application, and claim Application responses to not address the project in enough detail.

*i. Staff Response: All stormwater management shall adhere to the standards set forth by the Eastern Washington Stormwater Manual. The applicant shall work with the Department of Ecology to secure appropriate permits.*

*ii. Staff has also determined that due to anaerobic digesters being a permitted use, and regulated by a number of state and federal agencies (WAC 173-350-250); and with the attached mitigations, an EIS will not be necessary, and instead a mitigated determination of non-significance will suffice. The purpose of this MDNS is to ensure the applicant obtains the necessary permits from state agencies prior to development of the site.*

e. Ms. Mendoza submitted a letter to the City of Sunnyside titled ‘This is an appeal of the City of Sunnyside’s Mitigated Determination of Non-Significance (MDNS) for a proposed manure bio-digester to be located in the vicinity of 2711 and 334 Sunnyside Mabton Highway. The SEPA Number is SEPA-2022.0200 and the applicant is Sunnyside Renewable Natural Gas

(RNG). If this letter is not sufficient, please provide instruction.’ This letter is requesting an appeal of the MDNS originally issued on June 22, 2023.

- i. Staff Response: Appeal Period: This MDNS is issued under WAC 197-11-340(2). The City’s final determination shall be final and conclusive. SEPA determinations are an advisory opinion issued by the lead agency and not appealable. .*
  - f. Ms. Mendoza provided a PowerPoint presentation of the Pacific Ag project to the City.
  - g. Ms. Mendoza provided a several pages of comments titled ‘Biodigesters in the News’. These pages are a collection of potential hazard statements that may be created from biogas or biodigesters. There also several references to incidents created from manure leaks and digester failure when regulations are not followed. They also include documents describing the economic benefits of anaerobic digesters, and the potential environmental benefits that they provide.
  - h. Ms. Mendoza submitted a letter sent to her by Yakima Valley Emergency Management regarding the proposed Pacific Ag project.
- B. Several comments were received from Maria Fernandez and are summarized below:
- a. Ms. Fernandez provided several screenshots of social media posts.
    - i. Staff response: comments on social media are not considered official public comments related to a specific City project. The City Municipal Code and WAC 197-11 have specific criteria on how comments may be submitted to the City. The City of Sunnyside does not participate in online social media commenting.*
  - b. Ms. Fernandez submitted a comment letter to the City calling for a SEPA review to be conducted by an outside agency, questioning why only people with a certain distance to the project only received a notice in the mail, and that ELLA held a community meeting on November 30<sup>th</sup>, 2023, and that nobody from the City was present during their meeting.
    - i. Staff Response: The City is the Lead Agency for SEPA Application processing (per WAC 197-11-050) Per SMC § 18.04.040.A - For those proposals for which the City is the lead agency, the responsible official shall be the Zoning/Code Enforcement Officer. The Community and Economic Development Director of the City of Sunnyside is responsible for processing the SEPA permit. This process cannot be conducted by a third party.*



Issuance of Swine Farm Digester General Permit’, ‘California’s Green-Energy Subsidies Spur a Gold Rush in Cow Manure’, ‘FALSE PROMISES and HIDDEN IMPACTS of DAIRY DIGESTERS’, ‘Really Terrible Science Experiment Leads to Weeks-long Spill From NC Hog-waste Lagoon’, ‘Relation Between Nitrate in Water Wells and Potential Sources in the Lower Yakima Valley, Washington’, ‘Rethinking Manure Biogas’, Inventory of US Greenhouse Gas Emissions and Sinks’, and ‘Wayne Co. Toxic Spill Exposes Lack of NCDEQ Transparency’.

- i. *Staff Response: SEPA Agencies have specifically expressed the permits the applicant needs in order to move forward with their application. Under WAC 197-11-330 – Threshold Determination Process: the responsible official shall: Review the Checklist; Independently evaluate the responses; and Determine the impact of the impact of the development. These criteria have been completed by the responsible official. The City of Sunnyside is requiring the applicant to apply for a New Source Review with the YRCAA. YRCAA is the agency responsible for monitoring and regulating air pollution in the Sunnyside area. The City of Sunnyside requires that the applicant follow all rules and regulation established by the YRCAA. Additionally, part six of 197-11-330 has been evaluated, there are no cultural resources, critical areas, or identified endangered species present in the area. Additionally, this area is located within the City of Sunnyside and regulated by the City’s Comprehensive plan and development regulations.*

D. A letter was submitted by Lidia Garcia which states “I am a community member of Sunnyside and have been for over fifty years. I am appalled that that the City of Sunnyside approve for this methane plant to move forward in our community!! Obviously, no attention has been paid to the close proximity to families in the area this plant will be built on. Furthermore, communication has only been provided English. Companies such as this should make every effort to clearly inform the community they intend to enter into. The positive environmental impact that this company wants to convince us of, will create issues for the people that have sustained Sunnyside for generations. I want to reiterate, I am fully opposed to this methane plant coming into our community.”

- i. *The development has been proposed on a Heavy Industrial parcel within the City of Sunnyside. The majority of the land in between highway 241 and Midvale Rd. is zoned Heavy Industrial, where the proposed use would be considered a permitted use. In addition to local, state, and federal regulations, mitigations are being made to ensure compatibility with neighboring properties and the community as a whole.*

- E. A comment was received from Evonne Martinez which reads “It is my understanding that all comments regarding the proposed biomethane plant at the Port of Sunnyside are to be submitted to you. Although I do not currently reside in Sunnyside, I have in the past and I do own property in the Sunnyside area. In addition, my grandparents were one of the early Latino families that settled in the Sunnyside area after migrating from Texas. I spent many years visiting them in the late 60s until we moved to Washington State ourselves in 1968. My early memories of Sunnyside were the smells. The smell of the mint as the roots were being prepared for planting and then as it was later harvested. The smell of the grapes as they were nearing harvest and the smells of apples and other fruits. Sunnyside was a beautiful place back then and I remember how wonderful it was to visit and enjoy all that the Yakima Valley had to offer. However, as Sunnyside allowed dairy after mega dairy to develop, the only smell that has been present for several years is the stench of manure and the dust that arises from the cows especially in the summer. This proposed biomethane plant has the capacity to completely destroy the city of Sunnyside. Aside from the pollution that would be generated from the processing of manure, there is also the even more critical issue of the possibility of destroying and contaminating the water supply to the city. We are already witnessing how that can happen with manure pollution in the city of Mabton. It is essential that we prevent this from happening in Sunnyside. The fact as well that residents that live near the area were not informed of the potential risks from the development of this plant is also cause for concern. Residents would be further negatively impacted by the increase in diesel fuel vehicle traffic that would need to be utilized for the operation of the plant that causes further pollution. We know that the micro particles in this type of pollution are very damaging to the lungs and elders, children and those in more marginalized communities are further at increased risk for severe illness and shortened life spans. I hope that you are able to present these comments and concerns to the appropriate parties and that deep, intentional and public consideration can be fully utilized before a final decision is made on this project.”
- i. Staff Response: The area in which the project has been proposed is zoned Heavy Industrial, and the use is determined to be a permitted use in the zone. All of the cattle lots and dairy farms are located in the County. There are no cattle lots or dairy farms located within Sunnyside City limits.*
- F. Comments were submitted by Yasmine Barrios which state “My first concern is the particulate matter released into the air by the proposed plant. The provided Exhibit A titled [New Source Review Application Supporting Information Report Sunnyside RNG LLC Proposed Renewable Natural Gas Facility Yakima County, Washington] presents estimates for various pollutants. One in particular is presented as TONS per YEAR and I would like to see what the 24 hour estimate would be in

order to compare it to the exposure rate cited by the EPA The National Ambient Air Quality Standard for PM2.5 24-hour standard is 35 micrograms per cubic meter of air ( $\mu\text{g}/\text{m}^3$ ). The annual standard for PM2.5 is 12.0  $\mu\text{g}/\text{m}^3$ , averaged over three years.

2. My second concern is the lack of community awareness of this proposed project. In a community that primarily speaks Spanish there appears to have been very few opportunities to educate the community or include the broader community in making this decision that will impact the air and water quality to an unknown degree.”

i. *Staff Response: The YRCAA regulates the amount of pollutants a business is allowed to emit. The City of Sunnyside has required the project applicant to obtain New Source Review permits from the YRCAA, and adhere to all monitoring, policies, and regulations established by the YRCAA.*

ii. *The project was notified in accordance with City of Sunnyside, and WAC 197-11 regulations.*

G. Comments were submitted by Chelsea Dimas which state “Below you will find a list of concerns that I have regarding the Pacific Ag project:

Lack of communications and transparency

Why did the community not receive a public notice?

Why was the notice hidden on the city's website?

Why are there no Spanish communications given our monolingual community?

Why did the project move forward despite not meeting the Clean Air standards?

Where is the EIS?

Why hasn't this project been reviewed by a third party?

What have been the community members living near the proposed location kept in the dark?

Who will be held responsible if a disaster occurs?

Will community members affected be compensated?

Who will be monitoring the potential environmental and health impact?

Why was the website only recently updated?

Why has the city not responded to the community?

When can we expect a reply from you and the city?

i. *Staff Response: The application was notified in accordance with City of Sunnyside and state requirements, including notification of neighboring property owners within 300', a public notice in the local newspaper, and a notice on the property. The application has been revised to incorporate comments received from the YRCAA. All interested local and state agencies have been notified as part of the SEPA noticing requirements, and have been provided the opportunity to submit comments, which have been incorporated as mitigations*

*to this MDNS. In addition to these mitigations, anaerobic digesters are regulated by state and federal guidelines.*

- H. A form letter was submitted by the following people: Robert Hernandez, Pablo Meraz, Arturo Santana, Maria Cristina Santana, Norma Guizar, Rachel Megana, and Shane Daire. This form letter stated the following:

“I hope this correspondence finds you well. I am writing to you as a concerned resident during the public comment period concerning the proposed Sunnyside RNG biomethane plant in proximity to Sunnyside city limits and residential areas. My purpose is to articulate reservations and seek clarity on potential environmental impact risks, specifically in relation to air and water quality.

Upon conducting some research on biomethane plants in other municipalities, I have developed apprehensions regarding potential harm to the health and well-being of my family and neighbors. Notably, my concern is compounded by the apparent absence of explicit information addressing potential harm within the public discourse thus far. An examination of biodigester projects in other locales reveals instances ranging from minor inconveniences to significant environmental consequences. The lack of proactive communication on these matters from the city or port is disconcerting.

In light of these concerns, I respectfully request detailed information regarding any potential adverse environmental and public health risks associated with the Sunnyside RNG project. To ensure objectivity and transparency, I propose the commissioning of a comprehensive environmental impact statement, conducted by an impartial third party through SEPA review.

As a resident deeply invested in the well-being of our community, I anticipate that City and Port officials will uphold a commitment to transparency by disseminating clear and comprehensive information about both the benefits and drawbacks of a project as substantial as a biomethane plant.

Furthermore, I advocate for inclusive communication practices. Given the significant portion of our community that primarily communicates in Spanish, I urge that communications regarding the environmental impact be made available in Spanish. This will facilitate equitable understanding and engagement for all residents, irrespective of language preferences. I eagerly await the City and Port of Sunnyside's provision of the requested environmental impact statement for the Sunnyside RNG project. This information will enable residents to engage in a thorough review and contribute meaningful public comments. Your adherence to clear and transparent communication is instrumental in fostering community understanding and informed decision-making...”

- i. Staff Findings: The area in which the Pacific Ag facility is proposed is zoned Heavy Industrial (M-2). The development of*



*an anaerobic digester is a permitted use in the M-2 zoning district. Approximately 500 acres, in between Midvale Rd. and Highway 241 is designated as M-2 zoning, and owned by the port of Sunnyside.*

- ii. The City of Sunnyside is the Lead Agency in the SEPA Review, and municipally tasked with reviewing the SEPA Application.*
- iii. The SEPA Application has been noticed in accordance with the state and local guidelines for noticing of environmental review.*

I. An additional comment letter was received from Rachel Megana & Shane Daire which stated “I have additional issues with the timeframe that the comments must be made. I made comments at the Dec 11, 2023 city of Sunnyside council meeting about this, it being mailed out during busy holiday season with only a few days to reply by the time we get it in the mail. You, Trevor, said that you were extending comments yet here we are again with everyone receiving the new paperwork in the mail a few days before Christmas with the deadline 2 days after Christmas. That is NOT good practice and I feel like you’re trying to limit the amount of comment received. Plus the ever changing SEPA numbers. This is getting to be confusing and I think these are all tactics that you are using to confuse and limit the public knowledge of this methane gas plant because nobody wants this here and you know the more people that find out about this the more pushback there is going to be.”

- i. Staff Response; Notification have been issued in accordance with state and City standards, with the inclusion of two additional comment periods. There was a SEPA Notice that was mailed out under SEPA#2022-0200, when the application should have read 2023. All comments referencing 2022 and 2023 have been incorporated into this report.*

J. A form letter was received from Janeth Rodriguez, Nallie Rodriguez, Arturo Santana, Christina Santura, Javier Garcia, Sorocco Ramos, Jesus Perez, Lorena Cuevas Perez, Alicia Perez, Juan Perez, Jesus Perez, Eva Gonzalez and Rosie Perez, which reads “I am writing during this public comment period about the biomethane plant, Sunnyside RNG, proposed for a location near Sunnyside city limits and residential areas. I have obtained some information about biomethane plants in other cities, and I have concerns about any environmental impact risks, particularly with our air and water quality. I am concerned about the potential of real harm to my family and neighbors. I have not seen the city or port address any aspects of potential harm, which I find disturbing given that a simple internet search of biomethane plants and digesters in other cities provides article after article demonstrating that biodigesters have caused some harm in their respective areas, ranging from slight to extreme occurrences.

I would like more information about any potential adverse environmental and public health risks. Please provide me with an environmental impact statement based on an objective third party .SEPA review. As a resident, I would expect for city and port officials and administrators to be clear and transparent, with their community about any project as significant as a biomethane plant so that we may become familiar with both the benefits and disadvantages of such a project. Communications about the environmental impact must also be provided in Spanish because our community is made up of a significant number of families that primarily speak Spanish.

I look forward to the City and Port of Sunnyside providing the environmental impact statement for the Sunnyside RNG project for resident's review and additional public comment.”

- i. Staff Findings: The area in which the Pacific Ag facility is proposed is zoned Heavy Industrial (M-2). The development of an anaerobic digester is a permitted use in the M-2 zoning district. Approximately 500 acres, in between Midvale Rd. and Highway 241 is designated as M-2 zoning, and owned by the port of Sunnyside.*
- ii. The City of Sunnyside is the Lead Agency in the SEPA Review, and municipally tasked with reviewing the SEPA Application.*
- iii. SEPA Application has been noticed in accordance with state and local guidelines regarding environmental review.*

K. A letter was received from Kathleen Rogers, which generally opposes the project and calls for project to find a new location, outside of City limits.

- i. Staff Findings: The proposed project is in an area zoned M-2 and within the City of Sunnyside limits and on a Port of Sunnyside property. This area of the City is regulated by the Sunnyside Municipal Code and Growth Management Act. Potential relocation of the proposed facility is not under the purview of this review, nor the City of Sunnyside.*

L. A letter was received from Jerry’s Valley Meats generally opposing the proposed development and the proposed infrastructure development along highway 241, siting increased traffic along the highway.

- i. Staff Response - The proposed use is a permitted use in the Heavy Industrial (M-2) zoning district. The applicant has indicated they are willing to cooperate with the City’s conditions for development, and have filed all of the required permits. Improvements to Highway 241 will be required and conditioned as part of this revised MDNS. Much of the infrastructure required for this facility has already been installed, with road improvements being the most significant improvement left to be installed.*

All comment letters have been added to the project file and can be viewed at Sunnyside City Hall at 818 E. Edison Ave.

**8. Determination:**

The Lead Agency for this proposal has determined that, as mitigated, the proposed use will not have a probable significant adverse impact on the environment and an Environmental impact Statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after careful review of the completed environmental checklist, submitted agency and public comments, and other information on file with the lead agency. This information (including all environmental documentation and a traffic study) is available to the public upon request and can be examined at our office during regular business hours. Environmental documents include: SEPA checklist, this preliminary threshold determination, and submitted materials.

**9. Identified Environmental Impacts and Mitigation Measures:**

Substantive authority to require mitigation for significant and non-significant impacts is derived from WAC 197-11-660, City of Sunnyside Municipal code chapter 18.04-010, and, by reference, the policies contained in the City of Sunnyside Comprehensive Plan.

**Archaeological Resources:**

Based upon comments received from DAHP, there may be potential for cultural resources to be on site.

***Mitigation Measure:***

*An Inadvertent Discovery Plan shall be created and submitted to the City of Sunnyside as part of the building permit package for the proposed development.*

**Road Improvements:**

The project site will require access from Highway 241, and the applicant will be required to work with WSDOT to improve Highway 241 for necessary road improvements to accommodate for the increased commercial trucking to the site. Road improvements will be evaluated by the City of Sunnyside and WSDOT through the submission of engineering permits and civil construction plans.

***Mitigation Measures:***

- a. Existing approaches shall be removed and reconfigured into the site.*
- b. Any proposed lighting shall be directed down towards the site, and away from SR 241.*
- c. All loads transported on WSDOT rights-of-way must be within the legal size and load limits or have a valid oversize and/or overweight permit.*
- d. It is the applicant's responsibility to keep and maintain SR 241 free of debris.*

**Air Quality:**

The City of Sunnyside has received several comments regarding air, and air quality as it is related to this project. During the SEPA Comment Period, the City of Sunnyside received comments from the YRCAA, listed above. The applicant will be required to adhere to all YRCAA permitting processes and regulation prior to the issuance of any development permits.

### **Dust Control**

Based on soil types in the area and the proposed disturbance to those soils combined with the typical winds in this area make for the possibility of large amounts of suspended particulate matter into the air.

#### ***Mitigation Measures:***

- a. *The applicant is required to submit for a New Source Review with the Yakima Regional Clean Air Authority prior to the issuance of any City development permits.*
- b. *Contractors doing demolition, excavation, clearing, construction, or landscaping work shall file a Dust Control Plan with YRCAA and get approval, prior to the start of any work.*

### **Stormwater:**

Based on a variety of information, impacts to surface water by the development will most likely result unless stormwater is properly managed. Excavation, site development, road building and subsequent lot use, needs to be done in a manner that drainage facilities are not negatively impacted by site development and increased stormwater runoff.

Stormwater management is needed to minimize potential for negative effects of inadequately managed stormwater onto the public road system, and adjacent properties. Solid waste regulation falls under WAC 173-350, and managed by other state agencies, which have their own permits and developments standards for anaerobic digesters.

***Mitigation Measures:*** *a stormwater management plan is required to be submitted for review and approval by City of Sunnyside public works department prior to construction. The plan must meet the following design standards:*

- a) *Stormwater retention or detention shall be provided. A professional engineer registered in the state of Washington shall design all drainage facilities and components. Drainage plans using best management practices and design requirements must be submitted to and approved by City of Sunnyside prior to grading or development.*
- b) *Post development stormwater flow rates and volumes shall not exceed predevelopment conditions. The standard of full retention of the 25-year storm event generally meets the goal.*

*The depth to groundwater should be determined prior to planning the layout of stormwater facilities. If a stormwater infiltration facility will be used for the disposal of runoff, a permeability test should be conducted initially at the site to determine existing infiltration rates prior to the design stage.*

State and Federal Guidelines:

SEPA Environmental Review is not meant to take the place of, nor duplicate regulations that exist regarding the proposed use. State and federal regulations exist that monitor and regulate anaerobic digesters, and many of the concerns expressed address instances where operators were not complying with these regulations.

*Mitigation Measure: The proposed facility will adhere to all local, state, and federal guidelines regarding the construction, operation, and monitoring of anaerobic digesters and renewable natural gas facilities.*

**10. Conclusion:**

The lead agency for this proposal has determined that, as mitigated, the proposed use does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This MDNS is issued under 197-11-355. There is no further comment period on the MDNS.

**Appeal Period:** This MDNS is issued under WAC 197-11-340(2). The City's final determination shall be final and conclusive. SEPA determinations are an advisory opinion issued by the lead agency and not appealable.

**Contact:** For information on other issues relating to this proposal, contact Trevor Martin, at (509) 836-6393 or via email at [tmartin@sunnyside-wa.gov](mailto:tmartin@sunnyside-wa.gov).

**SEPA Responsible Official:**



Trevor Martin, AICP

**Position Title:**

Community and Economic Development Director

**Address:**

818 E. Edison, Sunnyside, WA 98944

**Date:**

March 22, 2024