

Appendix A

NOP and Scoping comments

**UNIVERSITY OF CALIFORNIA, DAVIS
NOTICE OF PREPARATION OF
A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT
AND NOTICE OF PUBLIC SCOPING MEETING
FOR THE SOLANO PARK DEMOLITION PROJECT**

Date: June 10, 2022

To: Responsible Agencies, Trustee Agencies, and Interested Persons

Lead Agency: University of California, Davis

Subject: Notice of Preparation of a Subsequent Environmental Impact Report for the Solano Park Demolition Project

Review Period: June 10 – July 11, 2022

Purpose of Notice: In accordance with the provisions of the California Environmental Quality Act (CEQA), the University of California, Davis (UC Davis) is distributing a notice of preparation (NOP) to solicit comments on the scope of a subsequent environmental impact report (Subsequent EIR) tiered from the 2018 Long Range Development Plan (LRDP) Program EIR (SCH #2017012008). Subsequent environmental review is environmental analysis prepared for a later discretionary approval after an agency has certified a prior EIR (PRC Section 21166; CEQA Guidelines Section 15162). UC Davis, the lead agency under CEQA (PRC, § 21000 et seq.), has determined that a Subsequent EIR is necessary to further evaluate the project-specific information on the Solano Park Demolition Project in relation to potential impacts to tribal cultural resources.

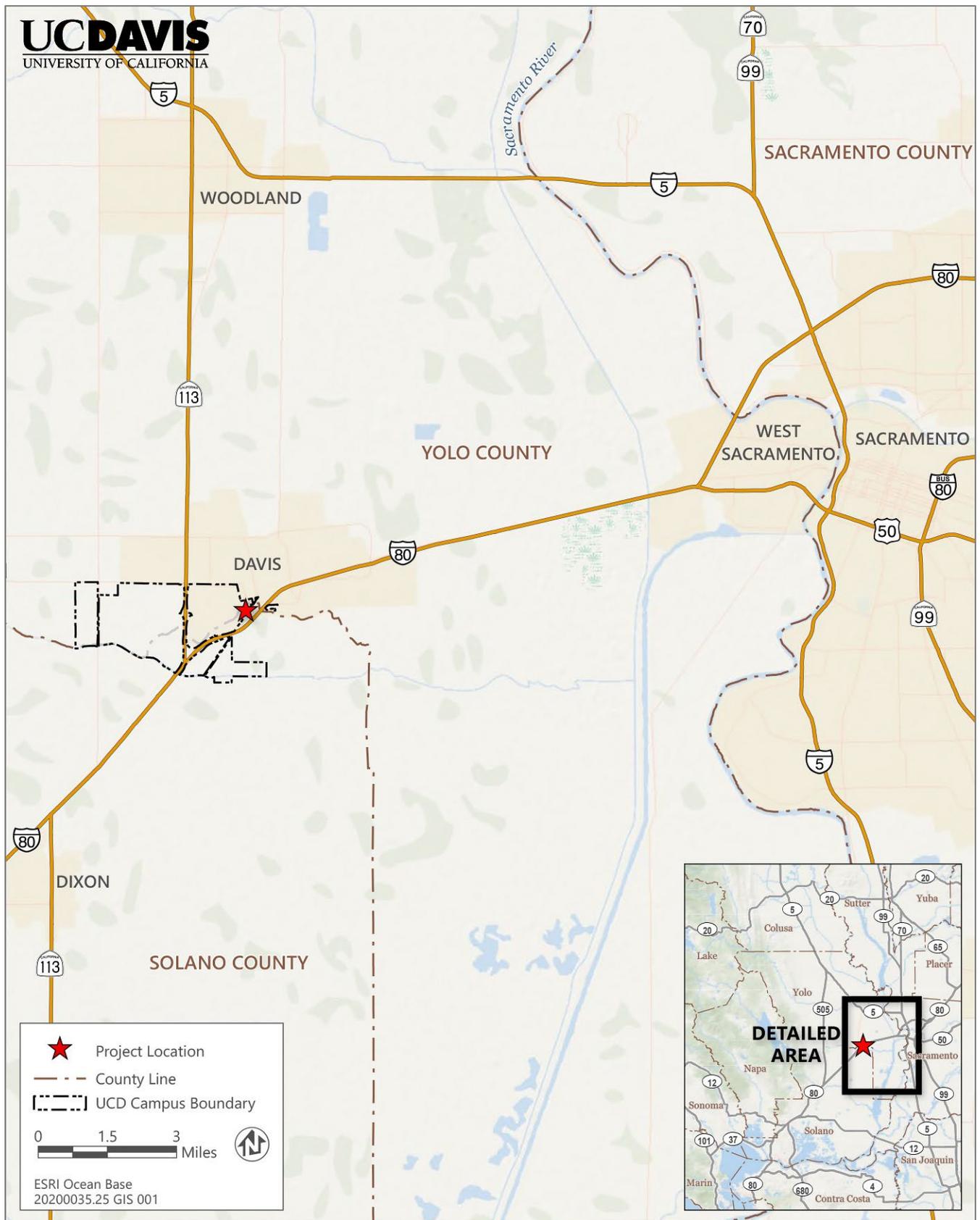
The purpose of this NOP is to provide an opportunity for the public, interested parties and public agencies to comment on the scope and proposed content of the Subsequent EIR.

Project Location: The Solano Park Demolition site is located on approximately 16 acres on the UC Davis central campus, located off Old Davis Road and Arboretum Drive, south of the Arboretum Waterway and along the Union Pacific Railroad tracks (Figures 1 and 2).

Project Overview: Solano Park is a housing development, built in 1962 that consists of 26 two-and three-story multi-unit apartment buildings, a community center, and ancillary buildings for mail, laundry, storage, and maintenance. The apartments and all associated buildings are currently vacant.

The Project would involve demolition of the UC Davis Solano Park Student Housing Development, including the removal of all existing buildings, removal or modification of surface and subsurface infrastructure, and the establishment of a management plan for the site after the demolition activities. Future development of the site is not currently proposed.

Environmental Effects: Due to the sensitivity of the site in terms of Patwin history, UC Davis has identified the potential for significant environmental effects related to archaeological and tribal cultural resources, which will be evaluated in further detail in the Subsequent EIR. UC Davis anticipates that the Project's other potential environmental effects were appropriately evaluated by the 2018 LRDP EIR and will substantiate that the Project is within the scope of the 2018 LRDP EIR for those resource topics.



Source: Adapted by Ascent Environmental in 2022

Figure 1 Regional Location



Source: Adapted by Ascent Environmental in 2022

Figure 2 Site Location/Project Boundary

Comment Period: UC Davis requests written comments regarding the scope and content for the Subsequent EIR that is relevant to your agency's statutory/regulatory responsibilities or is of interest to individuals, to ascertain potential environmental impacts of the project. The NOP comment period extends from June 10 to July 11, 2022.

The NOP is available review at the following locations:

On-line: <https://environmentalplanning.ucdavis.edu/solano-park-demolition>

UC Davis: Office of Campus Planning and Environmental Stewardship, 436 Mrak Hall

Public Libraries:

Davis: Mary L. Stephens Branch Library, 315 East 14th Street, Davis, CA 95616

UC Davis: Shields Library Reserves Section, Shields Avenue, University of California

Written and/or email comments on the NOP should be provided at the earliest possible date but must be received by 5:00 p.m. on July 11, 2022. Please send all comments on the NOP to:

Heather Davis, Associate Director of Environmental Planning
Campus Planning and Environmental Stewardship
University of California, Davis
One Shields Avenue
436 Mrak Hall
Davis, California 95616
E-mail: environreview@ucdavis.edu

Comments provided via email should include "UC Davis – Solano Park Demolition NOP Scoping Comment" in the subject line and the name and mailing address of the commenter in the body of the email. If you are from an agency that will need to consider the Subsequent EIR when deciding whether to issue permits or other approvals for the project, please provide the name of a contact person.

Public Scoping Meeting: UC Davis will host a virtual (on Zoom) public scoping meeting to inform interested parties about the Project, and to provide agencies and the public with an opportunity to provide comments on the scope and content of the Subsequent EIR. The scoping meeting will be held via webinar only.

Monday June 27, 2022 5:30 p.m. to 6:30 p.m.

Participants must register to attend the scoping meeting. Interested parties can register to attend by visiting the project's webpage: <https://environmentalplanning.ucdavis.edu/solano-park-demolition>

After registering, you will receive the link to log-into the webinar on June 27, 2022.

Memo



455 Capitol Mall, Suite 300
Sacramento, CA 95814
916.444.7301

Date: July 12, 2022
To: Heather Davis, UC Davis
From: Suzanne Enslow, Ascent Environmental
Subject: Solano Park Demolition Project Scoping Comment Summary

Overview

University of California, Davis (UC Davis or University) issued a Notice of Preparation (NOP) for the Solano Park Demolition Project (project) on June 10, 2022, beginning the scoping period for a Subsequent Environmental Impact Report (Subsequent EIR), tiered from the 2018 Long Range Development Plan (LRDP) EIR (SCH #2017012008). A public scoping meeting was held via webinar on June 27, 2022; no scoping comments were provided during the meeting. Written scoping comments were accepted from June 10 through July 11, 2022.

Scoping Comments Received

Scoping comments received in response to the NOP are documented in Table 1.

Table 1: Scoping Comments Received

Date	Commenter	Agency/Company/Organization
June 10, 2022	Pricilla Fuentes-Torres, Cultural Resources Analyst	Native American Heritage Commission
June 24, 2022	Gavin McCreary, Project Manager Site Evaluation and Remediation Unit Site Mitigation and Restoration Program	California Department of Toxic Substances Control
June 24, 2022	Miguel Cabrera, Northern District Deputy	California Department of Conservation, Geologic Energy Management Division
July 6, 2022	Erin Chappell, Regional Manager, Bay Delta Region	California Department of Fish and Wildlife
July 8, 2022	Peter Minkel, Engineering Geologist	Central Valley Regional Water Quality Control Board

Comment Summary by Topic

This section provides a summary of scoping comments by environmental topic.

Procedural

- ▶ CDFW filing fees with filing of Notice of Determination
- ▶ Use of a checklist to identify if the Project is within the scope of the 2018 LRDP EIR

Biological Resources

- ▶ Special-status species

- ▶ Sensitive natural communities
- ▶ CESA, incidental take permit for take of listed plants or animals
- ▶ Putah Creek is adjacent to the Project - Lake and Streambed Alteration Notification is necessary for activities affecting lakes, streams, or riparian habitat
- ▶ Nesting birds and migratory birds
- ▶ Site-specific biological resource setting and analysis
- ▶ Permanent and temporary disturbances
- ▶ Movement corridors
- ▶ CNDDDB database search

Cultural Resources

- ▶ CHRIS archaeological records search
- ▶ NAHC Sacred Lands File search
- ▶ Archaeological inventory and report
- ▶ Native American Tribal consultation list
- ▶ Inadvertent discovery of archaeological resources or Native American human remains

Hazardous Materials

- ▶ The EIR should acknowledge the potential for historic or future activities on or near the project site to result in the release of hazardous wastes/substances on the Project site. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The EIR should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.
- ▶ If buildings or other structures are to be demolished on any project sites included in the proposed Project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers.
- ▶ If any projects initiated as part of the proposed Project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to DTSC's 2001 Information Advisory Clean Imported Fill Material.
- ▶ If any sites included as part of the proposed Project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 Interim Guidance for Sampling Agricultural Properties (Third Revision).

Hydrology and Water Quality

- ▶ Basing Plan water quality objectives to protect beneficial uses
- ▶ Wastewater discharges – Antidegradation Policy
- ▶ Phase I and II Municipal Separate Storm Sewer System (MS4) Permits
- ▶ Reduction of pollutants and runoff; implementation of BMPs
- ▶ Clean Water Act Section 404 Permit
- ▶ Clean Water Act Section 401 Permit – Water Quality Certification
- ▶ Waste Discharge Requirements – Discharge to Waters of the State
- ▶ Dewatering Permit for discharge to land
- ▶ Limited Threat General NPDES Permit (construction dewatering that needs to be discharged to waters of the United States)
- ▶ NPDES Permit

Tribal Cultural Resources

- ▶ SB 18 and AB 52 tribal consultation requirements

Utilities and Service Systems

- ▶ Department of Conservation, Geologic Energy Management Division: “Our records indicate there are no known oil or gas wells located within the project boundary as identified in the application.” No wells identified to be abandoned.



NATIVE AMERICAN HERITAGE COMMISSION

June 10, 2022

Heather Davis
University of California, Davis
One Shields Avenue 436 Mrak Hall
Davis, CA 95616

CHAIRPERSON
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NAHC HEADQUARTERS
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nahc@nahc.ca.gov
NAHC.ca.gov

Re: 2017012008, Solano Park Demolition Project, Yolo County

Dear Ms. Davis:

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

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

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

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

[AB 52](#)

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

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:

A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:

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

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

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

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

SB 18

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

Some of SB 18's provisions include:

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

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

NAHC Recommendations for Cultural Resources Assessments

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

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (https://ohp.parks.ca.gov/?page_id=30331) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

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

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

If you have any questions or need additional information, please contact me at my email address:
Pricilla.Fuentes-Torres@nahc.ca.gov.

Sincerely,

Pricilla Fuentes-Torres

Pricilla Fuentes-Torres
Cultural Resources Analyst

cc: State Clearinghouse



Jared Blumenfeld
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D., Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

June 24, 2022

Ms. Heather Davis
University of California, Davis
One Shields Avenue
436 Mrak Hall
Davis, CA 95616
environreview@ucdavis.edu

NOTICE OF PREPARATION OF A SUBSEQUENT ENVIRONMENTAL IMPACT
REPORT FOR THE SOLANO PARK DEMOLITION PROJECT – DATED
JUNE 10, 2022 (STATE CLEARINGHOUSE NUMBER: 2017012008)

Dear Ms. Davis:

The Department of Toxic Substances Control (DTSC) received a Notice of Preparation of a Subsequent Environmental Impact Report (EIR) for the Solano Park Demolition Project (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the EIR:

1. The EIR should acknowledge the potential for historic or future activities on or near the project site to result in the release of hazardous wastes/substances on the Project site. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The EIR should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.

2. If buildings or other structures are to be demolished on any project sites included in the proposed Project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 [Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers](#).
3. If any projects initiated as part of the proposed Project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to [DTSC's 2001 Information Advisory Clean Imported Fill Material](#).
4. If any sites included as part of the proposed Project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [Interim Guidance for Sampling Agricultural Properties \(Third Revision\)](#).

DTSC appreciates the opportunity to comment on the EIR. Should you need any assistance with an environmental investigation, please visit DTSC's [Site Mitigation and Restoration Program](#) page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at [DTSC's Brownfield website](#).

If you have any questions, please contact me at (916) 255-3710 or via email at Gavin.McCreary@dtsc.ca.gov.

Sincerely,



Gavin McCreary
Project Manager
Site Evaluation and Remediation Unit
Site Mitigation and Restoration Program
Department of Toxic Substances Control

Ms. Heather Davis
June 24, 2022
Page 3

cc: (via email)

Governor's Office of Planning and Research
State Clearinghouse
State.Clearinghouse@opr.ca.gov

Mr. Dave Kereazis
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov



06/24/2022

County: Yolo - State Clearinghouse
Heather Davis
436 Mrak Hall, Davis, CA 95616, USA
hddavis@ucdavis.edu

Construction Site Well Review (CSWR) ID: 1012520

Assessor Parcel Number(s): 036170022

Property Owner(s): University of California Davis

Project Location Address: Old Davis Road and Arboretum Drive Davis, California 95616

Project Title: Solano Park Demolition Project

Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project dated 6/20/2022. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Yolo County, within the boundaries of the following fields:

N/A

Our records indicate there are no known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

The Division categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

There are no guarantees a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

The Division advises that all wells identified on the development parcel prior to, or during, development activities be tested for liquid and gas leakage. Surveyed locations should be provided to the Division in Latitude and Longitude, NAD 83 decimal format. The Division expects any wells found leaking to be reported to it immediately.

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

PRC § 3208.1 give the Division the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local

permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

No well work may be performed on any oil, gas, or geothermal well without written approval from the Division. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. The Division also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR §1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from the Division is required before work can start.

The Division makes the following additional recommendations to the local permitting agency, property owner, and developer:

1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements

near oil or gas wells, the Division recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.

2. The Division recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Northern district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Should you have any questions, please contact me at (805) 937-7246 or via email at Miguel.Cabrera@conservation.ca.gov.

Sincerely,

Miguel Cabrera
Northern District Deputy

cc: Brett Bonotto - Submitter
cc: Heather Davis - Plan Checker



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 6, 2022

Ms. Heather Davis
Campus Planning and Environmental Stewardship
University of California, Davis
One Shield Avenue
Davis, CA 95616
environreview@ucdavis.edu

Subject: Solano Park Demolition Project, Notice of Preparation of a Draft Subsequent Environmental Impact Report, SCH No. 2017012008, Solano County

Dear Ms. Davis:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a draft Subsequent Environmental Impact Report (SEIR) from the University of California, Davis (UC Davis) for the Solano Park Demolition Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ The SEIR is tiered from the UC Davis 2018 Long Range Development Plan Program EIR, for which CDFW previously provided comments.

CDFW is providing UC Davis, as the lead agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the SEIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION AND LOCATION

The Project would demolish 26 multi-story apartment buildings, a community center, and associated ancillary buildings that were constructed in 1962 and are currently vacant. The Project would remove all existing infrastructure and establish a management plan for the 16-acre site. Future development is not proposed.

¹ CEQA is codified in the California Public Resources Code in Section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

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The Project is located at 3700 Solano Park Circle and associated addresses on the UC Davis campus in an unincorporated area of Solano County. The Assessor's Parcel Number is 036-170-022-000 and the approximate Project centroid is Latitude 38.53812°N, Longitude 121.74444°W.

The CEQA Guidelines require that the SEIR incorporate a full project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description, as applicable:

- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed buildings/structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.

PROGRAM EIR AND TIERING

The NOP identifies that the SEIR would rely on the UC Davis Long Range Development Plan Program EIR (Program EIR) for all of the Project's environmental effects except archaeological and tribal cultural resources. CDFW recognizes that, pursuant to CEQA Guidelines section 15152, subdivision (c), if a Lead Agency is using the tiering process in connection with an EIR or large-scale planning approval, the development of detailed, site-specific information may not be feasible and can be deferred, in many instances, until such time as the Lead Agency prepares a future environmental document. This future environmental document would cover a project of a more limited geographical scale and is appropriate if the deferred information does not prevent adequate identification of significant effects of the planning approval at hand. The CEQA Guidelines section 15168, subdivision (c)(4) states, "Where the later activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were within the scope of the program EIR." Based on CEQA Guidelines section 15183.3 and associated *Appendix N Checklist*, and consistent with other program EIRs, CDFW recommends using a procedure or checklist to evaluate this subsequent Project's impacts on biological resources to determine if they are within the scope of the Program EIR, or if additional mitigation measures

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should be incorporated into the SEIR. This checklist should be included as an attachment to this Project's SEIR and include an analysis of all special-status species and sensitive natural communities including but not limited to species considered rare, threatened, or endangered pursuant to CEQA Guidelines, section 15380.

To appropriately identify that the Project or portions of the Project are "within the scope" of the Program EIR, the checklist should be accompanied by relevant information and reasonable inferences. For this Project and any activities that may affect sensitive biological resources, a site-specific analysis should be prepared by a qualified biologist to provide the necessary supporting information. In addition, the checklist should cite the specific portions of the Program EIR, including page and section references, containing the analysis of the Project activities' significant effects and indicate whether it incorporates all applicable mitigation measures from the Program EIR.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in take² of plants or animals listed under CESA or NPPA, either during construction or over the life of the Project. If the Project will impact CESA or NPPA listed species, including but not limited to those identified in **Attachment 1: Special-Status Species and Sensitive Natural Communities**, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program.

CEQA requires a Mandatory Finding of Significance if a Project is likely to substantially restrict the range or reduce the population of a threatened or endangered species (Pub. Resources Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the

² Take is defined in Fish and Game Code section 86 as hunt, pursue, catch, capture, or kill, or attempt any of those activities.

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natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also subject to notification. **The Project site is adjacent to Putah Creek. Any impacts to Putah Creek or associated riparian habitat would likely require an LSA Notification.** CDFW, as a responsible agency under CEQA, will consider the SEIR for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as the responsible agency.

Nesting Birds

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds. Fish and Game Code sections 3503, 3503.5, and 3513 protect birds, their eggs, and nests. Migratory birds are also protected under the federal Migratory Bird Treaty Act.

Fully Protected Species

Fully Protected species, including those listed in **Attachment 1**, may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

ENVIRONMENTAL SETTING

The above checklist and site-specific analysis prepared by the qualified biologist, and if warranted the SEIR, should provide sufficient information regarding the environmental setting (“baseline”) to understand the Project’s, and its alternative’s (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the checklist and site-specific analysis, and if warranted the SEIR, provide baseline habitat assessments for special-status plant, fish, and wildlife species located and potentially located within the Project area and surrounding lands, including but not limited to all rare, threatened, or endangered species (CEQA Guidelines, § 15380). These documents should describe aquatic habitats, such as wetlands, vernal pools, and/or waters of the U.S. or State, and any sensitive natural communities³ or riparian habitat occurring on or adjacent to the Project site, and any stream or wetland set back distances the city or county may require. Fully protected, threatened or endangered, and other special-status species and sensitive natural communities that are known to occur, or have the potential to occur in or near the Project area, include but are not limited to, those listed in **Attachment 1**.

³ For sensitive natural communities see <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>

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Habitat descriptions and the potential for species occurrence should include information from multiple sources, such as aerial imagery; historical and recent survey data; field reconnaissance; scientific literature and reports; the U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System; findings from positive occurrence databases such as the California Natural Diversity Database (CNDDDB); the California Aquatic Resource Inventory (CARI); data and analyses from the Program EIR; and sensitive natural community information available from the Great Valley Ecoregion Vegetation Map⁴. Based on the data and information from the habitat assessment, the checklist and site-specific analysis, and if warranted the SEIR, should adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols⁵ if available.

Botanical surveys⁶ for special-status plant species, including those with a California Rare Plant Rank⁷, must be conducted during the blooming period for all species potentially impacted by the Project within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrology, and require the identification of reference populations. More than one year of surveys may be necessary given environmental conditions.

IMPACT ANALYSIS AND MITIGATION MEASURES

The above checklist and site-specific analysis, and if warranted the SEIR, should discuss all direct and indirect impacts (temporary and permanent), including reasonably foreseeable impacts, that may occur with implementation of the Project (CEQA Guidelines, §§ 15126, 15126.2, & 15358). This includes evaluating and describing impacts such as:

- Encroachments into riparian habitats, drainage ditches, wetlands, or other sensitive areas.
- Potential for impacts to special-status species or sensitive natural communities.

⁴ Vegetation Alliances and Associations of the Great Valley Ecoregion, California available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=64011&inline>

⁵ Survey and monitoring protocols and guidelines are available at <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

⁶ Please refer to CDFW protocols for surveying and evaluating impacts to rare plants, and survey report requirements at <https://wildlife.ca.gov/Conservation/Plants>

⁷ <http://www.cnps.org/cnps/rareplants/inventory/>

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- Loss or modification of breeding, nesting, dispersal, and foraging habitat, including vegetation removal, alteration of soils and hydrology, and removal of habitat structural features (e.g., snags, rock outcrops, overhanging banks).
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic, or human presence.
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The above checklist and site-specific analysis, and if warranted the SEIR, should also identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact (CEQA Guidelines, § 15355). Although a project's impacts may be less-than-significant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact, e.g., reduction of habitat for a special-status species, should be considered cumulatively considerable.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines direct the Lead Agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the EIR and if warranted the SEIR, which CDFW recommends is supported by the checklist and site specific analysis, and mitigate potentially significant impacts of the Project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.4 & 15370). This includes a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. Project-specific measures should be incorporated as enforceable Project conditions to reduce impacts to biological resources to less-than-significant levels.

Fully protected species such as those listed in **Attachment 1**, may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515). Therefore, the EIR and if warranted the SEIR, supported by the checklist and site-specific analysis, should include measures to ensure complete avoidance of these species.

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDb. The CNDDb online field survey form and other methods for

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submitting data can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist UC Davis in identifying and mitigating Project impacts on biological resources. If you have any questions, please contact Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

B77E9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Special-Status Species and Sensitive Natural Communities

ec: State Clearinghouse (SCH No. 2017012008)

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Attachment 1: Special-Status Species and Sensitive Natural Communities

Scientific Name	Common Name	Status
Birds		
<i>Buteo swainsoni</i>	Swainson's hawk	ST
<i>Agelaius tricolor</i>	tricolored blackbird	ST
<i>Coccyzus americanus occidentalis</i>	western yellow-billed cuckoo	SE, FT
<i>Athene cunicularia</i>	burrowing owl	SSC
<i>Lanius ludovicianus</i>	loggerhead shrike	SSC
<i>Elanus leucurus</i>	white-tailed kite	FP
Fish		
<i>Acipenser medirostris</i> pop. 1	southern green sturgeon	FT
<i>Oncorhynchus mykiss irideus</i> pop. 11	Central Valley steelhead	FT
<i>Oncorhynchus tshawytscha</i> pop. 13	Central Valley fall/late fall run Chinook salmon	SSC
<i>Cottus gulosus</i>	riffle sculpin	SSC
<i>Lampetra ayresii</i>	western river lamprey	SSC
<i>Entosphenus tridentata</i>	Pacific lamprey	SSC
<i>Lampetra richardsoni</i>	western brook lamprey	SSC
<i>Lavinia exilicauda exilicauda</i>	Sacramento hitch	SSC
<i>Mylopharodon conocephalus</i>	hardhead	SSC
<i>Oncorhynchus mykiss irideus</i>	coastal rainbow trout	CRE
Amphibians		
<i>Rana draytonii</i>	California red-legged frog	FT, SSC

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Scientific Name	Common Name	Status
<i>Rana boylei</i>	foothill yellow-legged frog, northwest/north coast clade	SSC
Mammals		
<i>Taxidea taxus</i>	American badger	SSC
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	SSC
<i>Antrozous pallidus</i>	pallid bat	SSC
<i>Lasiurus blossevillii</i>	western red bat	SSC
Reptiles		
<i>Thamnophis gigas</i>	giant gartersnake	ST, FT
<i>Emys marmorata</i>	western pond turtle	SSC
Invertebrates		
<i>Desmocerus californicus dimorphus</i>	valley elderberry longhorn beetle	FT, ICP ⁸
<i>Danaus plexippus</i> pop. 1	monarch butterfly	FC, ICP
<i>Bombus crotchii</i>	Crotch bumble bee	ICP
<i>Bombus occidentalis</i>	western bumble bee	ICP
Plants		
<i>Astragalus tener</i> var. <i>ferrisiae</i>	Ferris' milk-vetch	CRPR ⁹ 1B.1
<i>Astragalus tener</i> var. <i>tener</i>	alkali milk-vetch	CRPR 1B.2

⁸ The list of California Terrestrial and Vernal Pool Invertebrates of Conservation Priority was collated during CDFW's Scientific Collecting Permit rulemaking process:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157415&inline>

⁹ CRPR 1B plants are considered rare, threatened, or endangered in California and elsewhere while Further information on CRPR ranks is available in CDFW's *Special Vascular Plants, Bryophytes, and Lichens List* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>).

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Scientific Name	Common Name	Status
<i>Atriplex depressa</i>	brittlescale	CRPR 1B.2
<i>Extriplex joaquinana</i>	San Joaquin spearscale	CRPR 1B.2
<i>Lepidium latipes</i> var. <i>heckardii</i>	Heckard's pepper-grass	CRPR 1B.2
<i>Puccinellia simplex</i>	California alkali grass	CRPR 1B.2
<i>Sensitive Natural Communities (Alliances or Associations)</i>		
<i>Quercus lobata</i>	valley oak woodland and forest	SNC

FE = federally listed as endangered under the Endangered Species Act (ESA); FT = federally listed as threatened under ESA; FC = candidate for federal listing under ESA; SE = state listed as endangered under CESA; ST = state listed as threatened under CESA; CE = candidate for state listing as threatened or endangered; FP = state fully protected under Fish and Game Code; SSC = state species of special concern; ICP = state invertebrate of conservation priority; CRPR = California rare plant rank; SNC = sensitive natural community; CRE = commercially, recreationally, and ecologically valuable

Central Valley Regional Water Quality Control Board

8 July 2022

Heather Davis
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COMMENTS TO REQUEST FOR REVIEW FOR THE NOTICE OF PREPARATION FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, SOLANO PARK DEMOLITION PROJECT, SCH#2017012008, SOLANO COUNTY

Pursuant to the State Clearinghouse's 10 June 2022 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Notice of Preparation for the Draft Environmental Impact Report* for the Solano Park Demolition Project, located in Solano County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore, our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by

the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

Peter Minkel

Peter Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,
Sacramento