

APPENDIX A

Notice of Preparation and Responses to Notice of Preparation



NOTICE OF PREPARATION AND SCOPING MEETING

Date: February 7, 2023

To: State Clearinghouse, Responsible and Trustee Agencies, Interested Parties, and Organizations

Subject: **Notice of Preparation of a Draft Environmental Impact Report for the General Plan Update, Downtown Specific Plan, and Zoning Ordinance Update**

Scoping Meeting: Wednesday, February 22, 2023, at 6 p.m. in the City Council Chambers, City Hall, 526 C Street, Marysville CA 95901.

Comment Period: February 7, 2023, through March 7, 2023

Lead Agency: City of Marysville

Per state law, the deadline for your response is 30-days after receipt of this notice; however, we would appreciate an earlier response, if possible. Written comments will be accepted until **March 7, 2023, at 5:00 p.m.**

Please identify a contact person and send your response to:

Contact: Kristina Heredia
Assistant Community Development Director
526 C St.
Marysville, CA 95901
Telephone: (530) 749-3902
Email: kheredia@marysville.ca.us

The City of Marysville as the Lead Agency is preparing a General Plan Update, a Specific Plan on a portion of the Downtown Area, and a Zoning Code Update – these three potential actions are collectively “the Project”. The City has determined that the Project requires the preparation of an Environmental Impact Report (EIR) in compliance with the California Environmental Quality Act (CEQA; California Public Resources Code, Section 21000 et seq.), and Title 14 of the California Code of Regulations (CEQA Guidelines). Because the City has determined that an EIR is required for the Project, pursuant to Section 15060(d) of the CEQA Guidelines, preparation of an Initial Study is not required and therefore one has not been prepared.

Purpose of Notice

The City has prepared this Notice of Preparation (NOP) in accordance with CEQA Guidelines Sections 15082(a) and 15375. This NOP solicits guidance from responsible, trustee, and involved federal agencies about the scope and content of environmental information to be included in the EIR related to the agencies' statutory responsibilities. The agencies will use the City's EIR when considering their permits or other approvals related to the Project. Specifically, input is requested on:

1. **Scope of Environmental Analysis**—guidance on the scope of analysis for this EIR, including identification of specific issues that will require closer study due to the location, scale, and character of the Project;
2. **Mitigation Measures**—ideas for feasible mitigation, including mitigation that would avoid, eliminate, or reduce potentially significant or significant impacts; and
3. **Alternatives**—suggestions for alternatives to the proposed Project that could potentially reduce or avoid potentially significant or significant impacts.

As outlined in CEQA Guidelines Section 15082(b), each responsible and trustee agency must identify specific environmental issues, alternatives, and mitigation measures that should be explored in the EIR. If there is no response within 30 days, the City will assume that there are no specific environmental issues, alternatives, or mitigation measures that the responsible and trustee agencies believe should be incorporated into the EIR.

The NOP also provides an opportunity for other interested parties to provide the City information they may possess or comment on environmental issues they see as being germane to the EIR.

Purpose of EIR

The purpose of an Environmental Impact Report (EIR) is to inform decision-makers and the general public of the environmental effects of a project that an agency may implement or approve. The EIR process is intended to provide information sufficient to evaluate a project and its potential for significant impacts on the environment, to examine methods of reducing adverse impacts, and to consider alternatives to the project.

The EIR for the proposed Project will be prepared and processed in accordance with the California Environmental Quality Act (CEQA) of 1970, as amended. In accordance with the requirements of CEQA, the EIR will include the following:

- A summary of the Project;
- A Project description;
- A description of the existing environmental setting, environmental impacts, and feasible mitigation measures for potentially significant impacts;
- Alternatives to the Project as proposed; and
- Environmental consequences, including (a) any significant environmental effects which cannot be avoided if the Project is implemented; (b) any significant irreversible and irretrievable commitments of resources; (c) the growth-inducing impacts of the proposed Project; and (d) cumulative impacts.

Project Location and Setting

The City of Marysville is the County Seat of Yuba County and is located in the western portion of the county, bisected by State Highway 70 and 20. Refer to **Figure 1** for the regional location and **Figure 2** for the City limits and existing Sphere of Influence.

Project Description

The General Plan Update will accommodate population growth and economic development through 2050. The City will consider expanding its Sphere of Influence (SOI) to determine whether to annex in the future. The existing City of Marysville General Plan was adopted in 1985. Except for the Housing Element and Safety Element, which were recently updated in 2022, the remaining elements will be updated as part of this Project. The General Plan functions as a guide for future development. It is intended to address a range of long-term issues and provide a comprehensive framework for policies to guide day-to-day decisions concerning the City of Marysville's future.

The City of Marysville received a planning grant through the Sacramento Area Council of Governments (SACOG) Regional Early Action Planning (REAP) Grant in order to prepare a specific plan in an area designated as "Green Means Go" which covers five "districts" in the Downtown Area including the Downtown, Ellis Lake, Medical Arts and E Street Corridor (See **Figure 3**). The Specific Plan is intended to provide opportunities and streamline development including additional housing and economic development opportunities. The Specific Plan will establish a development framework for land use, circulation, utilities and services, resource protection, and implementation. All subsequent development projects and related activities are required to be consistent with the Specific Plan.

The City of Marysville's Zoning Ordinance is found in Title 18 of the City's Municipal Code. The stated purpose of the Zoning Ordinance is to regulate the highest and best use of buildings, structures, and land in a manner consistent with the General Plan. It will be updated to be consistent with the updated General Plan and recent state law changes.

Potential Environmental Effects

The EIR will identify the significant environmental effects anticipated to result from adoption and implementation of the General Plan Update, Specific Plan, and Zoning Code Update.

1. Land Use and Planning

The EIR will describe existing land uses in the Planning Area (area to be covered by the General Plan and Specific Plan and potential Sphere of Influence). The EIR will evaluate consistency with existing plans and policies that were adopted for the purpose of reducing potential environmental impacts. Mitigation measures will be identified for significant land use impacts, as warranted.

2. Transportation

A Transportation Impact Analysis will be prepared to identify the impacts of the Project related to transportation, including vehicle miles traveled (VMT) impacts. The EIR will discuss potential conflicts with applicable policies related to circulation, including transit, roadway, bicycle, and pedestrian facilities. The EIR will also present an analysis of potential impacts related to hazardous design features and emergency access. Mitigation measures will be identified for significant transportation impacts, as warranted.

3. Biological Resources

The EIR will summarize the biological resources in the City's Planning Area, identify existing habitats, and evaluate the Project's potential effects on waterways and wetlands, sensitive habitats and mature native trees, sensitive plants and wildlife, and wildlife movement corridors, and will include a discussion of potential conflicts with relevant biological resources policies or ordinances. Mitigation measures will be identified for significant biological resource impacts, as warranted in accordance with State and Federal law.

4. Hydrology and Water Quality

The EIR will describe existing hydrologic conditions and generally assess impacts that could result from implementation of the Project in consideration of existing regulations that are designed to minimize hydrological and water quality impacts. Mitigation measures will be identified for significant hydrology and water quality impacts, as warranted.

5. Air Quality

Construction and operation of uses accommodated under the General Plan Update and Specific Plan would generate air pollutant emissions. The EIR will discuss the regional and local air quality setting and quantify projected changes in air pollutant emissions as a result of implementation of the proposed Project. The EIR will explain how methods and thresholds used to evaluate criteria air pollutant emissions are designed to assess potential human health effects. Mitigation measures will be identified for significant air quality impacts, as warranted.

6. Greenhouse Gas Emissions and Energy

GHG emissions associated with implementation of the Project would contribute incrementally to climate change. Project GHG emissions will be evaluated pursuant to current methodologies that quantify construction and operational GHG emissions. Results will be compared to applicable thresholds and feasible mitigation identified to address any cumulatively considerable impact. Adverse physical environmental effects associated with energy demand will be reported as a part of the air quality and greenhouse gas emissions impact analysis.

7. Cultural and Tribal Cultural Resources

The potential to impact cultural and historic resources will be described in the EIR, including Tribal Cultural Resources as required under Assembly Bill (AB) 52. The EIR will also describe consultation with California Native American tribes to obtain input that informs policies and implementation measures related to cultural and tribal cultural resources. Mitigation measures will be identified for significant impacts, as warranted.

8. Noise and Vibration

The EIR will describe potential noise and vibration effects, with a focus on noise- and vibration-sensitive uses. Mitigation measures will be identified to reduce significant noise impacts upon sensitive receptors, as warranted.

9. Aesthetics

The EIR will describe the existing visual setting. The visual changes resulting from the Project will be evaluated. The EIR will evaluate impacts related to scenic views, light, glare, and the visual character of Marysville. Mitigation measures will be discussed, as appropriate.

10. Hazards and Hazardous Materials

The EIR will identify potential impacts from the transport, use, or disposal of hazardous materials; accidental releases of hazardous materials; emissions of hazardous or acutely hazardous materials, substances, or waste near a school; proximity to known hazardous materials sites on the Cortese List (California Government Code Section 65962.5); and impairment of an adopted emergency response or evacuation plan. Mitigation measures to reduce significant hazardous material impacts will be identified, as warranted.

11. Geology, Soils, Minerals, and Paleontology

The EIR will briefly describe the geologic setting as related to seismicity, soils, other geologic hazards, and unique paleontological (fossil) resources. This section will outline design measures, best management practices, and regulatory requirements to minimize impacts on people or structures from seismic, soil, and other geologic hazards. The EIR will also identify any potential impacts to undiscovered fossils. The California Geological Survey mineral land classifications within the Planning Area will be discussed, and impacts to any regionally or locally important mineral resources will be evaluated. Mitigation measures to reduce impacts will be identified, if necessary.

12. Wildfire

The EIR will describe the potential for the Project to increase impacts related to wildfire. Marysville is not located in a Very High Fire Hazard Severity Zone as mapped by CAL FIRE. Mitigation measures to reduce impacts will be identified if necessary.

13. Public Services and Recreation

The EIR will describe existing public services related to fire, police, schools, and parks, and will evaluate whether the proposed Project would result in potential increases in demand that would require new facilities, the construction of which could cause significant environmental impacts. The EIR will also evaluate whether increased use of existing parks or other recreational facilities would result in substantial physical deterioration of such facilities.

14. Utilities and Service Systems

The EIR will evaluate physical environmental impacts related to the provision of utility systems, including water supply, wastewater treatment, solid waste disposal, electricity, and natural gas. Stormwater drainage facilities will be assessed in the Hydrology and Water Quality chapter of the EIR.

15. Alternatives

The EIR will evaluate possible alternatives to the proposed Project, including the No Project Alternative. The alternative discussion will focus on those alternatives that could feasibly accomplish most of the basic purposes of the Project while also avoiding or substantially lessening one or more potentially significant effects.

16. Significant Unavoidable Impacts

The EIR will identify those significant impacts that cannot be avoided, if the Project is implemented as proposed.

17. Cumulative Impacts

The potential for the proposed Project, when considered with other past, present, and reasonably

foreseeable future projects in the Project area, to result in a significant cumulative impact will be evaluated in the EIR.

In conformance with the CEQA Guidelines, the EIR will also include the following sections: (1) growth inducing impacts, (2) significant irreversible environmental changes, (3) references and organizations/persons consulted, and (5) EIR authors.

Public Review Period

The Notice of Preparation is being circulated for public review and comment for a period of 30 days beginning February 7, 2023. Written comments will be accepted by Marysville through 5:00 p.m. on March 7, 2023. Comments must be mailed to Kristina Heredia at the above address or emailed to: kheredia@marysville.ca.us.

The Notice of Preparation is available for review during normal business hours at the following location: Marysville City Hall, 526 C Street, Marysville, CA, 95901

Alternate formats of this document are available upon request. If reasonable accommodation is needed, call the Planning Department at (530) 749-3902.

Scoping Meeting

Pursuant to Public Resources Code Section 21083.9(a)(2), scoping meetings are required for projects that may have statewide, regional, or area-wide environmental impacts. The City has determined that this Project meets this threshold. Therefore, to provide the public and regulatory agencies an opportunity to ask questions and submit comments on the scope of the EIR, a Scoping Meeting will be held during the NOP review period. The Scoping Meeting will solicit input from the public and public agencies regarding the scope and content of the environmental impacts to be addressed in the Draft EIR.

At the meeting, a brief presentation will provide an overview of the proposed Project and the CEQA process. After the presentation, oral comments from the agencies and public about the proposed Project will be received. Comment forms will also be available for those who wish to submit written comments during the meetings, as well as throughout the 30-day NOP review period.

The public Scoping Meeting will be held on the following date and location:

February 22, 2023, at 6:00 p.m.
City Council Chambers
City Hall
526 C Street
Marysville CA 95901

The Scoping Meeting information is also available on the City's website: www.marysville.ca.us. Your views and comments on how the Project may affect the environment are welcomed and will be used to identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in the EIR. Effectively, the EIR will analyze potential impacts from buildout of the General Plan, buildout of the Specific

Plan, and implementation of the Zoning Ordinance update on the existing environment. The EIR will also identify and evaluate alternatives to the proposed Project.

Please contact Kristina Heredia using the contact information provided above, if you have any questions about the environmental review process for the proposed Project.

Figure 1
Regional Map

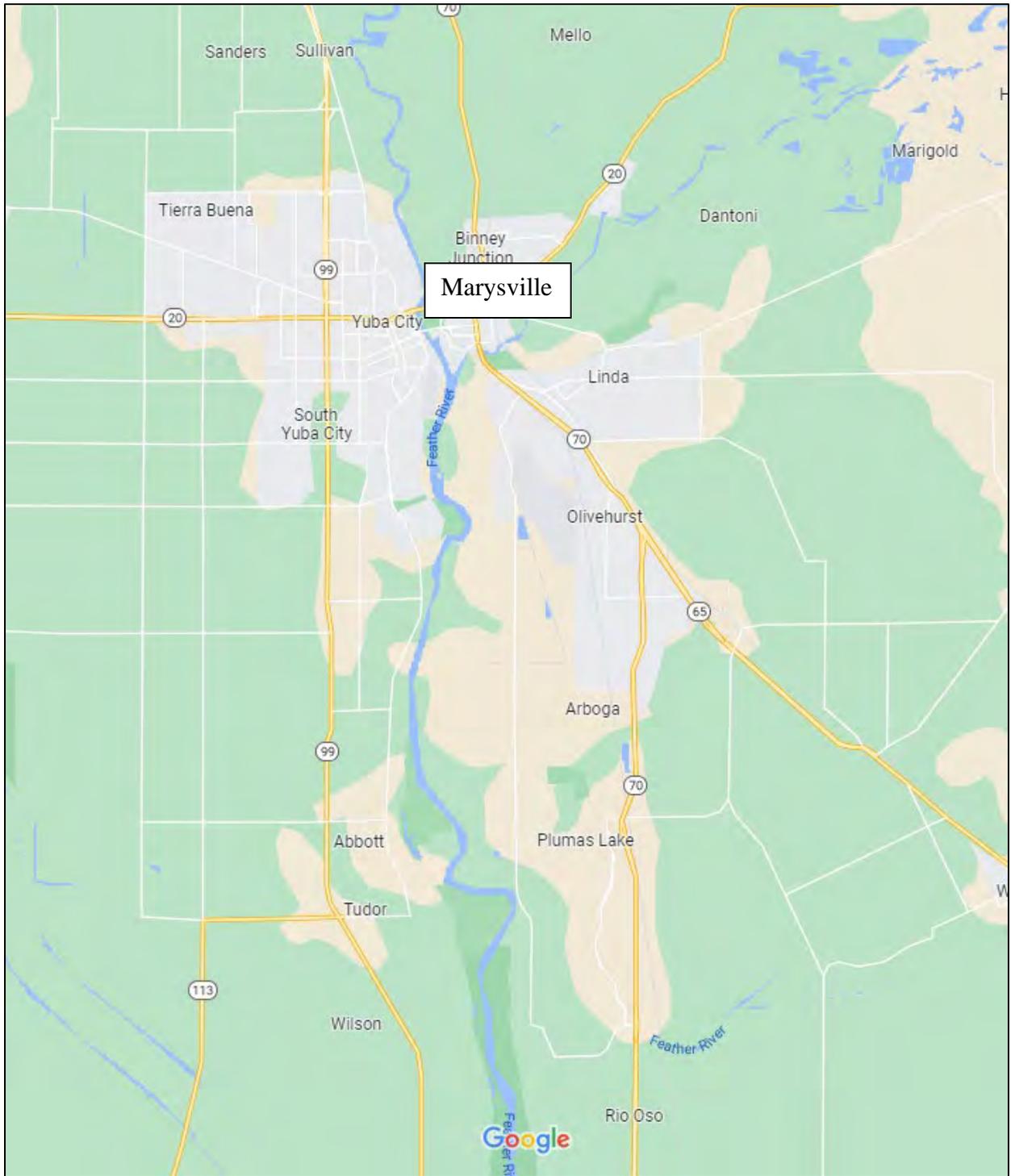


Figure 2
 City Limits and Existing Sphere of Influence

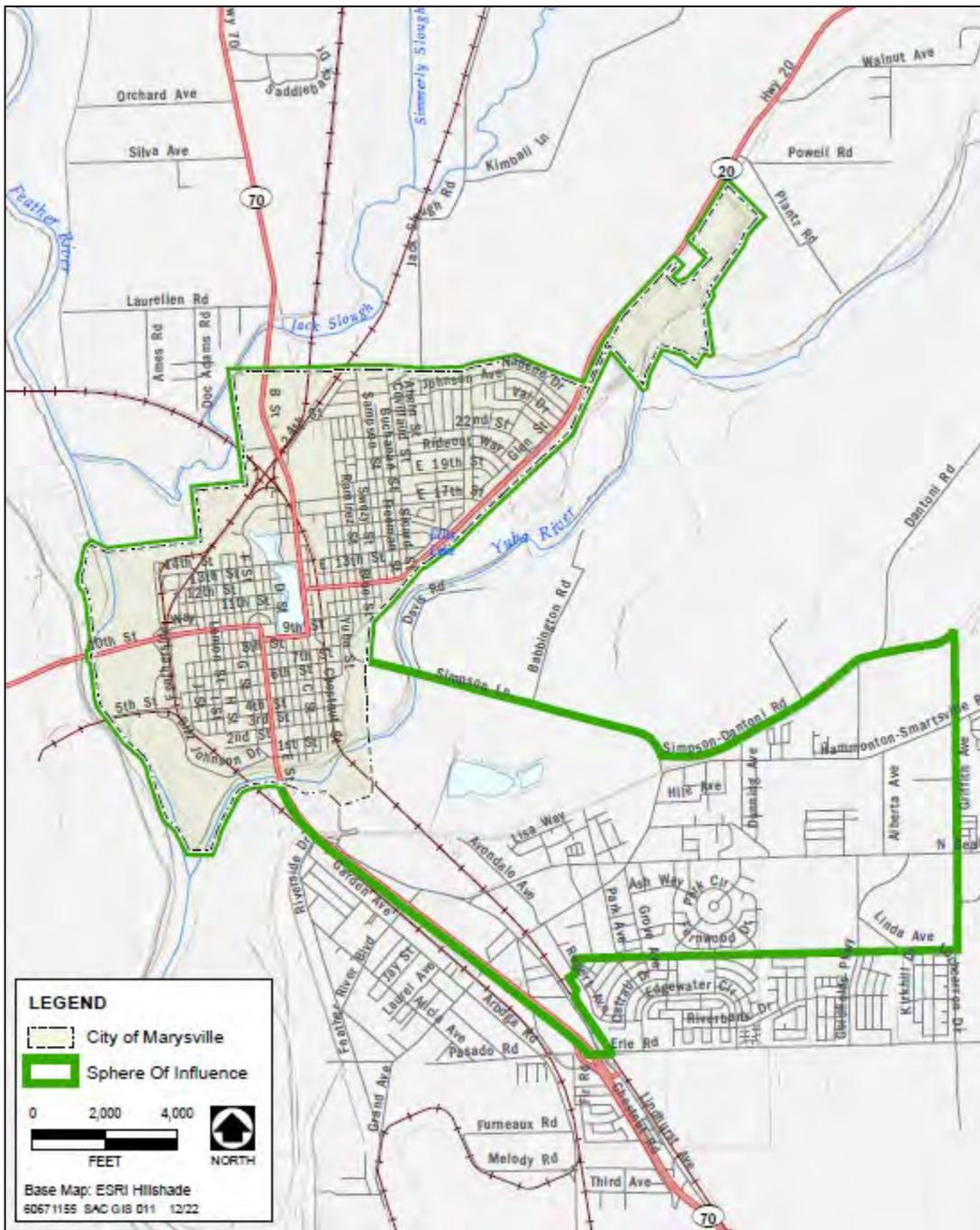
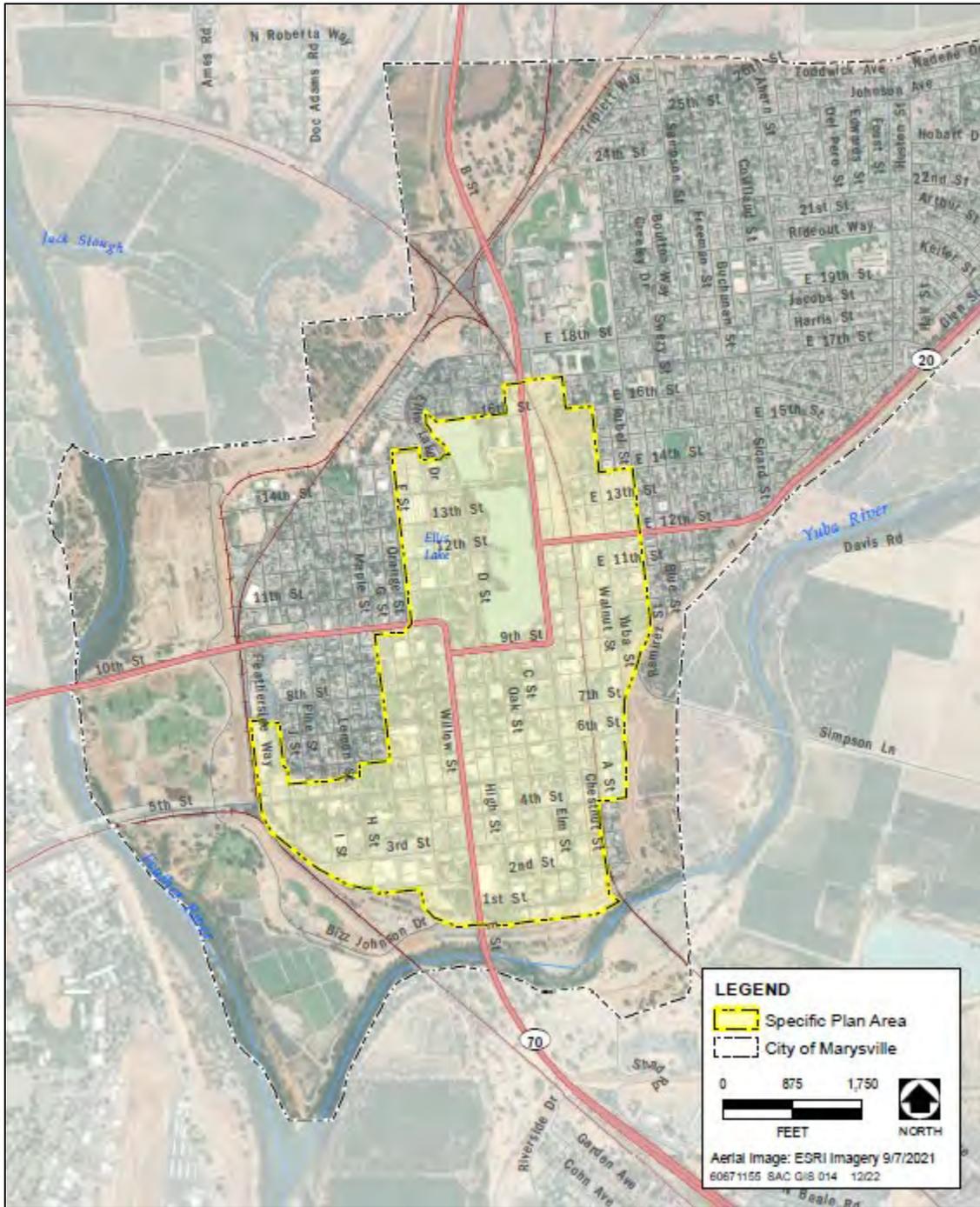


Figure 3
Specific Plan Area



Central Valley Regional Water Quality Control Board

8 March 2023

Kristina Heredia
City of Marysville
526 C Street
Marysville, CA 95901
kheredia@marysville.ca.us

COMMENTS TO REQUEST FOR REVIEW FOR THE NOTICE OF PREPARATION FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, GENERAL PLAN UPDATE, DOWNTOWN SPECIFIC PLAN AND ZONING CODE UPDATE PROJECT, SCH#2023020168, YUBA COUNTY

Pursuant to the State Clearinghouse's 7 February 2023 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 General Plan Update, Downtown Specific Plan and Zoning Code Update Project, located in Yuba 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

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 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/>

General Plan Update, Downtown Specific - 5 -
Plan and Zoning Code Update Project
Yuba County

8 March 2023

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



Yana Garcia
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

February 22, 2023

Ms. Kristina Heredia
City of Marysville
526 C Street
Marysville, CA 95901
KHeredia@marysville.ca.us

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE MARYSVILLE GENERAL PLAN UPDATE, DOWNTOWN SPECIFIC PLAN, AND ZONING ORDINANCE UPDATE – DATED FEBRUARY 7, 2023 (STATE CLEARINGHOUSE NUMBER: 2023020168)

Dear Ms. Heredia:

The Department of Toxic Substances Control (DTSC) received a Notice of Preparation of an Environmental Impact Report (EIR) for the Marysville General Plan Update, Specific Plan and Zoning Code Update (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, 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 Notice of Preparation references the listing compiled in accordance with California Government Code Section 65962.5, commonly known as the Cortese List. Not all sites impacted by hazardous waste or hazardous substances will be found on the Cortese List. DTSC recommends that the Hazards and Hazardous Materials section of the EIR address actions to be taken for any sites impacted by hazardous waste or hazardous substances within the Project area, not just those found on the Cortese List. DTSC recommends consulting with other agencies that may provide oversight to hazardous waste facilities or sites

impacted with hazardous substances in order to determine a comprehensive listing of all sites impacted by hazardous waste or substances within the Project area. DTSC hazardous waste facilities and sites with known or suspected contamination issues can be found on DTSC's [EnviroStor](#) data management system. The [EnviroStor Map](#) feature can be used to locate hazardous waste facilities and sites with known or suspected contamination issues for a county, city, or a specific address. A search within EnviroStor indicates that numerous hazardous waste facilities and sites with known or suspected contamination issues are present within the Project's region.

2. A State of California environmental regulatory agency such as DTSC, a Regional Water Quality Control Board (RWQCB), or a local agency that meets the requirements of [Health and Safety Code section 101480](#) should provide regulatory concurrence that Project sites are safe for construction and the proposed use.
3. The EIR should acknowledge the potential for historic or future activities on or near Project sites to result in the release of hazardous wastes/substances. 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.
4. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aerially deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil, DTSC recommends collecting soil samples for lead analysis prior to performing any intrusive activities for the Project described in the EIR.
5. 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.](#)

6. 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.](#)
7. 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.](mailto:Gavin.McCreary@dtsc.ca.gov)

Sincerely,



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

cc: (next page)

Ms. Kristina Heredia
February 22, 2023
Page 4

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



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Christopher D. Brown, AICP
Air Pollution Control Officer

March 7, 2023

Kristina Heredia
Assistant Community Development Director
526 C Street
Marysville, CA 95901

Re: Notice of Preparation of a Draft Environmental impact report for the General Plan Update, Downtown Specific Plan, and Zoning Ordinance Update

Dear Kristina Heredia,

The Feather River Air Quality Management District (District) appreciates the opportunity to review and comment on the City of Marysville Notice of Preparation for the Draft General Plan Update, Downtown Specific Plan, and Zoning Ordinance Update. The District has reviewed the Notice of Preparation and would like to submit the following comments in regards to air quality.

The District recommend that CEQA analyses of the potential air quality impact of general and area plans include discussion of the following:

- a) The proposed plan's consistency with the District's Air Quality Plans and the Sacramento Area Council of Governments' (SACOG's) Metropolitan Transportation Plan;
- b) The proposed plan's construction-generated criteria air pollutant and precursor emissions;
- c) The proposed plan's operational criteria air pollutant and precursor emissions;
- d) The proposed plan's Toxic Air Contaminant (TAC) emissions;
- e) Potential odor exposure related to the proposed plan;
- f) The proposed plan's greenhouse gas (GHG) emissions;
- g) A significance determination for each of the items (a) through (f) above, without mitigation;
- h) A discussion of feasible mitigation necessary for each of the items (a) through (f) above to reduce impacts; and
- i) A discussion regarding whether the proposed mitigation would be sufficient to reduce impacts to a less than significant level, or if the impact would remain significant and unavoidable.

If you need any further assistance, please contact me at (530) 634-7659 x209.

Sincerely,

Peter Angelonides
Air Quality Planner

Enclosures: Rules and Regulations Statement, FRAQMD Construction Phase Mitigation Measures, Fugitive Dust Control Plan, Thresholds of Significance, Operational Emissions of Criteria Air Pollutants Best Available Mitigation Measures for Operational Phase

File: Chron

FRAQMD Rules & Regulations Statement: New Development

The following statement is recommended as standard condition of approval or construction document language for **all** development projects within Feather River Air Quality Management District (FRAQMD). All projects are subject to FRAQMD rules in effect at the time of construction. A complete listing of current rules is available at www.fraqmd.org or by calling 530-634-7659. Specific rules that may relate to construction activities or building design may include, but are not limited to:

Regulation IV: Stationary Emission Sources Permit System and Registration. Any project that includes the use of equipment capable of releasing emissions to the atmosphere may require permit(s) from FRAQMD prior to equipment operation. The applicant, developer, or operator of a project that includes an emergency generator, boiler, or internal combustion engine should contact the FRAQMD early to determine if a permit is required, and to begin the permit application process. Portable construction equipment (e.g. generators, compressors, pile drivers, lighting equipment, etc.) with an internal combustion engine over 50 horsepower are required to have a FRAQMD permit or a California Air Resources Board portable equipment registration. Other general types of uses that require a permit include, but are not limited to fumigation chambers, gasoline tanks and dispensing, spray booths, and operations that generate airborne particulate emissions.

Rule 3.0: Visible Emissions. A person shall not discharge into the atmosphere from any single source of emissions whatsoever, any air contaminants for a period or periods aggregating more than three minutes in any one hour which is as dark or darker in shade as that designated as No. 2 on the Ringleman Chart.

Rule 3.15: Architectural Coatings. The developer or contractor is required to use coatings that comply with the volatile organic compound content limits specified in the rule.

Rule 3.16: Fugitive Dust. The developer or contractor is required to control dust emissions from earth moving activities, storage or any other construction activity to prevent airborne dust from leaving the project site.

Rule 3.17: Wood Burning Devices. This rule requires newly installed wood burning devices meet emission standards. Wood burning fireplaces are prohibited unless they meet emission standards.

Rule 3.23: Natural Gas-Fired Water Heaters, Small Boilers, and Process Heaters. This rule requires all newly purchased or installed units 75,000 Btu/hr up to 1 million Btu/hr meet emission limits.

Rule 7.10: Indirect Source Fee. An applicant for a building permit shall pay fees to the FRAQMD based on number of units (residential) or square footage of the building and associated parking (commercial and industrial).

Disposal by Burning: Open burning is yet another source of fugitive gas and particulate emissions and shall be prohibited at the project site. No open burning of vegetative waste (natural plant growth wastes) or other legal or illegal burn materials (trash, demolition debris, et. al.) may be conducted at the project site. Vegetative wastes should be chipped or delivered to waste to energy facilities (permitted biomass facilities), mulched, composted, or used for firewood. It is unlawful to haul waste materials offsite for disposal by open burning.

In addition, other State or Federal rules and regulations may be applicable to construction phases of development projects, including:

California Health and Safety Code (HSC) section 41700. Except as otherwise provided in Section 41705, no person shall discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health, or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.

HSC section 41701. Except as otherwise provided in Section 41704, or Article 2 (commencing with Section 41800) of this chapter other than Section 41812, or Article 2 (commencing with Section 42350) of Chapter 4, no person shall discharge into the atmosphere from any source whatsoever any air contaminant, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is: (a) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or (b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subdivision (a).

California Vehicle Code section 23114 regarding transportation of material on roads and highways.

California Code of Regulations Title 13 Chapter 10 section 2485: Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. Limits idling time to 5 minutes for on-road heavy duty diesel trucks.

California Code of Regulations Title 13 Chapter 9 Article 4.8 section 2449: Regulation for In-Use Off-Road Diesel Vehicles. Limits idling time to 5 minutes.

California Code of Regulations Title 17 Division 3 Chapter 1 Subchapter 7.5 section 93105: Asbestos ATCM for Construction, Grading, Quarrying, and Surface Mining Operations.

California Code of Regulations Title 17 Division 3 Chapter 1 Subchapter 7.5 section 93106: Asbestos ATCM for Surfacing Applications.

Asbestos NESHAP. Prior to demolition of existing structures, an asbestos evaluation must be completed in accordance with the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) regulations. Section 61.145 requires written notification of demolition operations. Asbestos NESHAP Demolition/Renovation Notification Form can be downloaded at <http://www.arb.ca.gov/enf/asbestos/asbestosform.pdf>. This notification should be typewritten and postmarked or delivered no later than ten (10) days prior to the beginning of the asbestos demolition or removal activity. Please submit the original form to USEPA and a copy each to California Air Resources Board (CARB) and the District at the addresses below:

U.S. EPA
Attn: Asbestos NESHAP Program
75 Hawthorne Street
San Francisco, CA 94105

CARB, Compliance Division
Attn: Asbestos NESHAP Program
P.O. Box 2815
Sacramento, CA 95814

FRAQMD
Attn: Karla Sanders
541 Washington Avenue
Yuba City, CA 95991

FRAQMD Construction Phase Mitigation Measures

1. The contractor shall be responsible to ensure that all construction equipment is properly tuned and maintained prior to and for the duration of onsite operation.
2. Utilize existing power sources (e.g., line power) or clean fuel generators rather than temporary power generators.
3. Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
4. All grading operations on a project should be suspended when winds exceed 20 miles per hour or when winds carry dust beyond the property line despite implementation of all feasible dust control measures.
5. Work areas shall be watered or treated with Dust Suppressants as necessary to prevent fugitive dust violations.
6. An operational water truck should be available at all times. Apply water to control dust as needed to prevent visible emissions violations and offsite dust impacts. Travel time to water sources should be considered and additional trucks used if needed.
7. Onsite dirt piles or other stockpiled material should be covered, wind breaks installed, and water and/or soil stabilizers employed to reduce wind-blown dust emissions. Incorporate the use of approved non-toxic soil stabilizers according to manufacturer's specifications to all inactive construction areas.
8. All transfer processes involving a free fall of soil or other particulate matter shall be operated in such a manner as to minimize the free fall distance and fugitive dust emissions.
9. Apply approved chemical soil stabilizers according to the manufacturers' specifications, to all inactive construction areas (previously graded areas that remain inactive for 96 hours) including unpaved roads and employee/equipment parking areas.
10. To prevent track-out, wheel washers should be installed where project vehicles and/or equipment exit onto paved streets from unpaved roads. Vehicles and/or equipment shall be washed prior to each trip. Alternatively, a gravel bed may be installed as appropriate at vehicle/equipment site exit points to effectively remove soil buildup on tires and tracks to prevent/diminish track-out.
11. Paved streets shall be swept frequently (water sweeper with reclaimed water recommended; wet broom) if soil material has been carried onto adjacent paved, public thoroughfares from the project site.
12. Provide temporary traffic control as needed during all phases of construction to improve traffic flow, as deemed appropriate by the Department of Public Works and/or Caltrans and to reduce vehicle dust emissions.
13. Reduce traffic speeds on all unpaved surfaces to 15 miles per hour or less and reduce unnecessary vehicle traffic by restricting access. Provide appropriate training, onsite enforcement, and signage.
14. Reestablish ground cover on the construction site as soon as possible and prior to final occupancy, through seeding and watering.

15. The proponent shall assemble a comprehensive inventory list (i.e. make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that will be used an aggregate of 40 or more hours for the construction project and apply the following mitigation measure:

The project shall provide a plan for approval by FRAQMD demonstrating that the heavy-duty (equal to or greater than 50 horsepower) off-road equipment to be used in the construction project, including owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 5 percent ROG reduction, 20 percent NOx reduction and 45 percent particulate reduction compared to the most recent CARB fleet average at time of construction. A Construction Mitigation Calculator (MS Excel) may be downloaded from the SMAQMD web site to perform the fleet average evaluation <http://www.airquality.org/ceqa/index.shtml> . Acceptable options for reducing emissions may include use of late model engines (Tier 4), CARB Approved low-emission diesel products, alternative fuels, engine retrofit technology (Carl Moyer Guidelines), after-treatment products, voluntary offsite mitigation projects, provide funds for air district offsite mitigation projects, and/or other options as they become available. The District should be contacted to discuss alternative measures.

The results of the Construction Mitigation Calculator shall be submitted and approved by the District PRIOR TO BEGINNING WORK. The project shall provide a monthly summary of heavy-duty off-road equipment usage to the District throughout the construction of the project.

16. The Lead Agency may also contribute to the FRAQMD's Off-Site Mitigation Program to reduce project emissions to less than significant. The lead agency should include contribution to the off-site mitigation program as a mitigation measure in its environmental analysis. The lead agency will need to compile a list of all emission sources and consult with the FRAQMD staff to implement this mitigation measure. The project will need to track emissions generated from equipment and vehicles throughout the project phase that is estimated to exceed the threshold (for example, if construction phase exceed the threshold, then track emissions from off-road, portable, and on-road equipment and vehicles). Please consult with the FRAQMD for more information on contributing to an Off-Site Mitigation Program.

**Feather River Air Quality Management District
Fugitive Dust Control Plan**

This plan, upon signature and submittal to the FRAQMD, will serve as an approved Fugitive Dust Control Plan to be implemented at the designated site. This plan must be submitted by the project proponent and received at the air district prior to start of work.

The approved plan serves as an acknowledgment by the project proponent of their duty to address state and local laws governing fugitive dust emissions and the potential for first offense issuance of a Notice of Violation by the air district where violations are substantiated by District staff. This plan (along with standard mitigation measures for all projects and best available mitigation measures where applicable) shall be made available to the contractors and construction superintendent on the project site.

• Site Location: _____

• Project Type (circle all that apply): Residential Commercial Industrial Transportation

• List of responsible persons:

Company: _____

Office (name, title, address, phone): _____

Field (name, title, phone): _____

• Projected Start and End Dates: _____
(Day/Month/Year)

Project Proponent: _____
Printed Name Company/Phone

By signing this document I acknowledge that I have read the FRAQMD Rules and Regulations Statement: New Development, which includes state and local fugitive dust emission laws. I understand that it is my responsibility as the project proponent to ensure that appropriate materials and instructions are available to site employees to implement fugitive dust mitigation measures appropriate for each development phase of this project in order to ensure compliance.

I further acknowledge that it is my responsibility to ensure that site employees are made formally aware of fugitive dust control laws, requirements, and available mitigation techniques, and that appropriate measures are to be implemented at the site as necessary to prevent fugitive dust violations.

Signature: _____ Name: _____

Title: _____ Date: _____

_____ FRAQMD – Modified 2/23/2016 _____

Please Submit to: FRAQMD, 541 Washington Avenue, Yuba City, CA 95991 Attn: Planning
Phone: 530-634-7659 x210 FAX: 530-634-7660 Email: planning@fraqmd.org

3. Thresholds of Significance

Projects that are subject to CEQA generally undergo a preliminary evaluation in an Initial Study. The Initial Study is used to determine if a project may have a significant effect on the environment. The Initial Study should evaluate the potential impact of a proposed project on air quality. The air quality impact of a project is determined by examining the types and levels of emissions generated by the project, the existing air quality conditions, and neighboring land uses. The initial study should analyze all phases of project planning, construction and operation, as well as cumulative impacts. When considering a project's impact on air quality, a lead agency should provide substantial evidence that supports its conclusions in an explicit, quantitative analysis whenever possible.

The State CEQA Guidelines Appendix G (included as Appendix D in this document) presents a modal initial study checklist. This checklist suggests criteria for determining whether a project will have a potentially significant impact on air quality. According to the checklist, a project will have a potentially significant impact if it will:

- Conflict with or obstruct implementation of the applicable air quality plan.
- Violate any air quality standard or contribute to an existing or projected air quality violation.
- Result in cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors).
- Expose sensitive receptors to substantial pollutant concentrations.
- Create objectionable odors affecting a substantial number of people.

In addition, the District has adopted Thresholds of Significance to assist Lead Agencies in determining whether a project may have a significant impact on air quality. If a Lead Agency determines that the proposed project would exceed any of these Thresholds, then an EIR should be prepared. Where no significant air quality impacts of a project or plan can be identified in the Initial Study, the District recommends that the Lead Agency either prepare a Negative Declaration or include in the EIR a statement explaining the reasons for determining air quality impacts as less than significant.

3.1. FRAQMD Thresholds of Significance

Project Phase	Nitrogen Oxides (NO _x)	Reactive Organic Gases (ROG)	Particulate Matter less than 10 microns (PM ₁₀)	Particulate Matter less than 2.5 microns (PM _{2.5})	Greenhouse Gases (CO ₂ , CH ₄)
Operational	25 lbs/day	25 lbs/day	80 lbs/day	Not Yet Established	Not Yet Established
Construction	25 lbs/day multiplied by project length, not to exceed 4.5 tons/year *	25 lbs/day multiplied by project length, not to exceed 4.5 tons/year*	80 lbs/day	Not Yet Established	Not Yet Established

*NO_x and ROG Construction emissions may be averaged over the life of the project, but may not exceed 4.5 tons/year

4. Construction Generated Emissions of Criteria Air Pollutants

The District distinguishes two types of projects, Type 1 and Type 2. Type 1 projects are land use projects in which an operational phase exists. Type 2 projects have no land use component. Examples of Type 2 projects are road construction and levee projects. The District recommends that construction emissions generated by the two types of projects be evaluated and mitigation measures applied as described below.

Type 1: Is a land use project in which an operation phase exists (such as retail/commercial development or residential housing projects). The emissions generated during the operational phase of the project are considered long term and will be used to determine significance of the project. The District recommends the use of URBEMIS (most recent version), or other District approved model, to calculate operational and construction phase emissions.

If the operational emissions of a Type 1 project do not exceed the operational thresholds, and the construction emissions of NO_x or ROG do not exceed the 25 lbs/day averaged over the length of the project or the PM₁₀ emissions do not exceed 80 lbs/day, the District recommends the following construction phase Standard Mitigation Measures:

1. Implement the Fugitive Dust Control Plan
2. Construction equipment exhaust emissions shall not exceed FRAQMD Regulation III, Rule 3.0, Visible Emissions limitations (40 percent opacity or Ringelmann 2.0).
3. The contractor shall be responsible to ensure that all construction equipment is properly tuned and maintained prior to and for the duration of onsite operation.
4. Limiting idling time to 5 minutes – saves fuel and reduces emissions. (State idling rule: commercial diesel vehicles- 13 CCR Chapter 10 Section 2485 effective 02/01/2005; off road diesel vehicles- 13 CCR Chapter 9 Article 4.8 Section 2449 effective 05/01/2008)
5. Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
6. Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
7. Portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, may require California Air Resources Board (ARB) Portable Equipment Registration with the State or a local district permit. The owner/operator shall be responsible for arranging appropriate consultations with the ARB or the District to determine registration and permitting requirements prior to equipment operation at the site.

If the operational emissions of a Type 1 project do not exceed the operational thresholds, but the construction phase emissions exceed the construction thresholds of 25 lbs/day of NO_x or ROG averaged over the length of the project and 80 lbs/days of PM₁₀, the District recommends the Standard Mitigation Measures listed above in addition to the following Best Available Mitigation Measures for Construction Phase:

1. All grading operations on a project should be suspended when winds exceed 20 miles per hour or when winds carry dust beyond the property line despite implementation of all feasible dust control measures.
2. Construction sites shall be watered as directed by the Department of Public Works or Air Quality Management District and as necessary to prevent fugitive dust violations.
3. An operational water truck should be available at all times. Apply water to control dust as needed to prevent visible emissions violations and offsite dust impacts.
4. Onsite dirt piles or other stockpiled particulate matter should be covered, wind breaks installed, and water and/or soil stabilizers employed to reduce wind blown dust emissions. Incorporate the use of approved non-toxic soil stabilizers according to manufacturer's specifications to all inactive construction areas.
5. All transfer processes involving a free fall of soil or other particulate matter shall be operated in such a manner as to minimize the free fall distance and fugitive dust emissions.
6. Apply approved chemical soil stabilizers according to the manufacturers' specifications, to all-inactive construction areas (previously graded areas that remain inactive for 96 hours) including unpaved roads and employee/equipment parking areas.
7. To prevent track-out, wheel washers should be installed where project vehicles and/or equipment exit onto paved streets from unpaved roads. Vehicles and/or equipment shall be washed prior to each trip. Alternatively, a gravel bed may be installed as appropriate at vehicle/equipment site exit points to effectively remove soil buildup on tires and tracks to prevent/diminish track-out.
8. Paved streets shall be swept frequently (water sweeper with reclaimed water recommended; wet broom) if soil material has been carried onto adjacent paved, public thoroughfares from the project site.
9. Provide temporary traffic control as needed during all phases of construction to improve traffic flow, as deemed appropriate by the Department of Public Works and/or Caltrans and to reduce vehicle dust emissions. An effective measure is to enforce vehicle traffic speeds at or below 15 mph.
10. Reduce traffic speeds on all unpaved surfaces to 15 miles per hour or less and reduce unnecessary vehicle traffic by restricting access. Provide appropriate training, onsite enforcement, and signage.
11. Reestablish ground cover on the construction site as soon as possible and prior to final occupancy, through seeding and watering.
12. Disposal by Burning: Open burning is yet another source of fugitive gas and particulate emissions and shall be prohibited at the project site. No open burning of vegetative waste (natural plant growth wastes) or other legal or illegal burn materials (trash, demolition debris, et. al.) may be conducted at the project site. Vegetative wastes should be chipped or delivered to waste to energy facilities (permitted biomass facilities), mulched, composted, or used for firewood. It is unlawful to haul waste materials offsite for disposal by open burning.

Additional mitigation measures may be available and lead agencies should contact the District for more information.

Type 2 Projects: This type of project has no operational phase. The construction phase emissions are the only emissions generated by the project and significance should be based on construction

phase emissions. The URBEMIS or other District recommended land use model may not be the most appropriate for calculating emissions from these types of projects. The District recommends the Roadway Construction Emissions Model to calculate emissions from linear construction projects, such as new roadways, road widening, and levee projects. This model is available to download at: <http://www.airquality.org/ceqa/index.shtml>. Other District recommended models may be available, and the lead agency should contact the District for more information.

A Type 2 project is considered to be a less than significant impact if the averaged project life emissions do not exceed 25 lbs/day of NO_x or ROG, and the daily emissions of 80 lbs/day of PM₁₀. For example, if a project is six months, then the maximum allowed emissions are 4500 lbs or 2.25 tons. For projects that occur over multiple years, the maximum allowed emissions of NO_x and ROG are 4.5 tons/year. The project should implement Standard Mitigation Measures (above) and prepare a ND.

If the Type 2 project average project life emissions exceed the thresholds of 25 lbs/day of NO_x or ROG, or daily emissions of 80 lbs/day of PM₁₀, the project must apply Best Available Mitigation Measures for Construction Phase (above) and include other mitigation to reduce the impact to below the significant thresholds. A MND may be prepared, which includes all mitigation measures, if the project is successful at mitigating emissions below the thresholds. If the project cannot mitigate below the thresholds of significance, the project should prepare an EIR and incorporate all feasible mitigation measures. The District staff are available to assist lead agencies and project applicants with selection and incorporation of feasible mitigation measures.

4.1 Special Considerations for Construction Phases of Projects

In addition to the construction air quality thresholds and mitigation measures above, there are a number of special conditions, local regulations or state/federal rules that apply to construction activities. These conditions must be addressed in proposed construction activity.

Sensitive Receptors

The proximity of sensitive receptors to a construction site constitutes a special consideration and may require an evaluation of toxic diesel particulate matter. Examples of sensitive receptor locations include schools, day care centers, parks/playgrounds, hospitals or nursing centers, and residential dwelling units. If a project is located within 1,000 feet of a sensitive receptor location, the impact of diesel particulate matter should be included in the environmental analysis. For more information on diesel particulate matter, please refer to Section 6 Toxic Air Contaminants.

Diesel Idling Restrictions

On-road vehicles must adhere to the idling restrictions of Section 2485 of Title 13 of the California Code of Regulations. The regulation applies to vehicles with a gross vehicular weight rating of 10,000 pounds and licensed for operation on highways. In general, the regulation restricts vehicle idling of the primary diesel engine to no more than 5 minutes in any location. The regulation also prohibits operation of a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on a vehicle during sleeping or resting in a sleeper berth for greater than 5 minutes at any location when within 100 feet of a restricted area.

Off-road vehicles must adhere to the idling restrictions of Section 2449(d)(3) of the California Air Resources Board's In-Use Off-Road Diesel Regulation. The regulation restricts idling time to 5 minutes. For more information refer to: www.arb.ca.gov/regact/2007/ordies107/frooal.pdf.

Asbestos

Naturally Occurring Asbestos (NOA) and asbestos containing material may be encountered during construction phase of a project. NOA is most likely to be found in the foothills and mountainous portions of the Feather River District. Asbestos containing materials can be present during demolition and remodeling, as well as found in utility pipes or pipelines. For more information on asbestos, refer to Section 6 Toxic Air Contaminants.

Permits

Portable engines 50 horsepower (hp) or greater, and certain types of equipment commonly used during construction activities may require California statewide portable engine equipment registration (issued by the CARB) or an Air District permit. The following list is an example of types of equipment/operations that may require this type of permit:

- Power screens, conveyors, diesel engines, and/or crushers;
- Portable generators and equipment with engines that are 50 hp or greater;
- Internal combustion engines;
- Unconfined abrasive blasting operations;
- Concrete batch plants;
- Rock and pavement crushing;
- Tub grinders; and
- Trommel screens.

If the above types of equipment/operations are part of the proposed project, the project applicant and/or lead agency should contact the District for more information. Equipment/Operations that typically require an Air District permit for the operational phase of the project are discussed in Section 9 Permitted Sources.

5. Operational Emissions of Criteria Air Pollutants

Air pollutant emissions from urban development can derive from a variety of sources, including motor vehicles, wood burning appliances, natural gas and electric energy use, combustion-powered utility equipment, paints and solvents, and equipment or operations used by various commercial and industrial facilities.

The evaluation of a project's emissions of ozone precursors (NO_x and ROG) and PM₁₀ pertains to the following questions regarding air quality from the Environmental Checklist Form (Appendix D of this document) of the State CEQA Guidelines:

- III.a. Would the project conflict with or obstruct implementation of the applicable air quality plan?
- III.b. Would the project violate an air quality standard or contribute substantially to an existing or projected air quality violation?
- III.c. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

The District has prepared a screening table of project types not expected to exceed the significance thresholds. For projects that exceed the screening tables, or do not fit into the given land use categories, emissions should be calculated using a District approved model. The District approved model at the time these Guidelines have been adopted is the URBEMIS model. The most recent version, available free to download at:

<http://www.urbemis.com/software/download.html>. Additional models may be available and lead agencies should contact the District for more information.

Land use projects that exceed the size listed in the screening table should perform a project specific air quality analysis using URBEMIS, and incorporate Best Available Mitigation Measures (BAMM) (Appendix C) to reduce the impact to a less than significant level. If the project is successful at mitigating to below the thresholds, then the lead agency may prepare a Mitigated Negative Declaration (MND) which contains all mitigation measures along with applicable scheduled implementation.

If the project cannot mitigate below the thresholds, then an Environmental Impact Report (EIR) should be prepared which includes all feasible mitigation measures. The District is available to assist the lead agency as to the feasibility of measures. The District recommends at least 15% reduction in emissions from feasible mitigation measures. The BAMM assigns point values to each measure, whereas 1 point equates to 1% reduction in emissions.

To expedite the environmental review process, the District has calculated the size of various land use projects that are estimated to exceed the thresholds of significance. Table 5-1 is provided to assist lead agencies in determining significance, and should only be used for screening purposes.

assist lead agencies in determining significance, and should only be used for screening purposes. Projects that do not fit into one of the listed land use categories, are mixed use projects, or have exceptional circumstances should not use Table 5-1.

Table 5-1: Screening Criteria for Operational Air Quality Impacts

URBEMIS 9.2.4 Land Use Categories	Project Size Greater than Significant Threshold Emissions lbs/day	Units
Residential		
Single Family Homes	130	Dwelling Units
Apartments, Low Rise	160	Dwelling Units
Commercial		
Bank, With Drive Thru	7	1,000 sq. ft.
General Office Building	130	1,000 sq. ft.
Medical Office Building	50	1,000 sq. ft.
Educational		
Day Care Center	20	1,000 sq. ft.
Elementary School	115	1,000 sq. ft.
Junior High School	115	1,000 sq. ft.
High School	115	1,000 sq. ft.
Junior College	65	1,000 sq. ft.
Place of Worship	125	1,000 sq. ft.
Recreational		
City Park	800	Acres
Racquet/Health Club	55	1,000 sq. ft.
Fast Food Restaurant w/drive thru	2	1,000 sq. ft.
Fast Food Restaurant w/out drive thru	3	1,000 sq. ft.
High turnover (sit-down) Restaurant	13	1,000 sq. ft.
Quality Restaurant	20	1,000 sq. ft.
Motel	275	Rooms
Large Retail		
Home Improvement Superstore	60	1,000 sq. ft.
Regional Shopping Center	40	1,000 sq. ft.
Free-Standing Discount Store	30	1,000 sq. ft.
Retail		
Strip Mall	40	1,000 sq. ft.
Supermarket	17	1,000 sq. ft.
Convenience Market (w/out gas pumps)	2	1,000 sq. ft.
Gasoline/Service Station	12	Pumps
Industrial		
Warehouse	350	1,000 sq. ft.
General Light Industry	225	1,000 sq. ft.
General Heavy Industry	600	1,000 sq. ft.
Industrial Park	250	1,000 sq. ft.
Manufacturing	400	1,000 sq. ft.

URBEMIS 9.2.4 emissions from area and operational sources with no mitigation selected. Feather River Air Quality Management District settings, 0% hearth fireplaces and 0% wood stoves. On road emissions based on Emfac2007 V2.3.

Appendix C: Best Available Mitigation Measures for Operation Phase

#	Description	Development Type R=Residential C=Commercial/Industrial M=Mixed	Point Value (Maximum)	Comments
Bicycle/Pedestrian/Transit				
1	Non-residential projects provide bicycle lockers and/or racks	C	0.5	
2	Provide an additional 20 percent of required Class I and Class II bicycle parking facilities	C	0.5	
3	Non-residential projects provide personal showers and lockers	C	0.5	
4	Bicycle storage (Class I) at apartment complexes or condos without garages	R	0.5	
5	Entire project is located within 1/2 mile of an existing Class I or Class II bike lane and provides a comparable bikeway connection to the existing infrastructure	R, C, M	1.0	Large Projects: All facilities must be in place before 20% of the occupancy permits are granted. Small Projects: All facilities must be in place within 1-year of start of business.
6	The project provides for pedestrian facilities and improvements such as overpasses and wider sidewalks	R, C, M	1.0	Large Projects: All facilities must be in place before 20% of the occupancy permits are granted. Small Projects: All facilities must be in place within 1-year of start of business.
7	Bus service provides headways of 15 minutes or less (1.0) or 30 minutes or less (0.5) for stops within 1/4 mile; project provides essential bus stop improvements (i.e., shelters, route information, benches, and lighting).	C	1.0 , 0.5	Maximum combined credit for measure #7 and #64 is 2.0

8	Provide a display case or kiosk displaying transportation information in a prominent area accessible to employees or residents	R, C, M	0.5	In coordination with Yuba-Sutter Transit
9	High density residential, mixed, or retail/commercial uses within 1/4 mile of existing transit, linking with activity centers and other planned infrastructure	R, C, M	2.0 for light rail, 1.0 for bus only	Planned infrastructure must be in General Plan, Specific Plan, or Community Plan. Maximum credit is 2.0 (light rail and bus points cannot be combined).
10	High density residential, mixed, or retail/commercial uses within 1/4 mile of planned transit, linking with activity centers and other planned infrastructure	R, C, M	1.0 for light rail, 0.5 for bus only	Planned transit must be in Transit Masterplan; planned infrastructure must be in General Plan, Specific Plan, or Community Plan. Maximum credit is 1.0 (light rail and bus points cannot be combined). Cannot get points for both this measure and measure #9.
Parking				
11	Employee and/or customer paid parking system (no validations)	C	3.0	Must be coordinated with Yuba-Sutter TMA.
12	Provide minimum amount of parking required	C, M	0.5	May require city/county variance
13	Provide parking reduction: Office 25%, Medical office 8%, Commercial 5%, Industrial 10%, Additional 10-20% if located along transit station (special review of parking is required)	C, M	2.5	May require city/county variance or revision to ordinance
14	Provide grass paving or reflective surface for unshaded parking lot areas, driveways, or fire lanes that reduce standard black asphalt paving by 10% or more in consultation with FRAQMD	R, C, M	1.0 , 0.5	Portland concrete is the preferred paving material; "Chip Seal" methodology is also preferred; Green Pavement: http://www.invisiblestructures.com/GP2/grasspave.htm . 1.0 for Portland concrete or Chip Seal; other approved reflective or green surfaces 0.5
15	Increase parking lot shading by 20% over code utilizing low pollution-emitting trees	R, C, M	1.0	In consultation with FRAQMD (Low Ozone Forming Potential Shrubs and Trees)
16	Provide electric vehicle charging facilities	R, C, M	1.0	Details of facilities' provision must be coordinated with City or County and FRAQMD. Incentive funding may be available for City/County projects from the FRAQMD.
17	Provide preferential parking for carpool/vanpools	C	0.5	Including signage

18	Covered carpool/vanpool spaces near the entrance to the building(s)	C	0.5	Including signage
19	Loading and unloading facilities for transit and carpool/vanpool users	C	0.5	Including signage
20	Project is located within one mile of a park and ride lot operated by a transportation agency	R	0.5	Fosters public transit use for the workplace commute.
21	Provide a parking lot design that includes clearly marked and shaded pedestrian pathways between transit facilities and building entrances	C	0.5	Emphasis on safety and convenience
22	Adopt a Vehicle Idling Policy requiring all vehicles under company control to adhere to a 5 minute idling policy. Also, enforce an onsite idling policy of 5 minutes or less including company owned, contract, vendor, and delivery vehicles.	C	0.5	FRAQMD approved written company policy, vendor contractual language, onsite signage and enforcement procedures required.
Commercial Building Design				
23	Implement PG&E "Savings By Design" assistance and incentive programs that encourage high performance building design and construction.	C, M	tbd	Cannot use points for both this measure and #48 (or other overlapping measures) unless they are uniquely different as determined by the FRAQMD; Point values to be determined
24	Setback distance is minimized between development and existing transit, bicycle, or pedestrian corridor	C, M	1.0	
25	Setback distance is minimized between development and planned transit, bicycle, or pedestrian corridor	C, M	0.5	Planned transit, bicycle or pedestrian corridor must be in MTP, RT Masterplan, General Plan, or Community Plan. Cannot get points for both this measure and measure #24.
Residential Development				
26	Average residential density 7 d.u. per acre or greater	R	1.5, 3.0, 4.5	1.5 points for 7-14 du/acre, 3.0 points for 15-29 du/acre, 4.5 points for 30+ du/acre

27	Multiple and direct street routing (grid style)	R, C, M	2.5	Full credit for internal connectivity factor (CF) >= 0.70, and average 1/4 mile or less between external connections. [CF= # of intersections / (# of cul-de-sacs + intersections)]
28	Granny Flats - Have ancillary "granny units" (requires Special Development Permit but no Accessory Structure Use Permit)	R	1.0	
Mixed Use				
29	Development of projects predominantly characterized by properties on which various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site. A "single site" may include contiguous properites.	M	3.0	Cannot get points for both this measure and any "Convenience Services" measures. Also mutually exclusive with #30.
30	Partial Mixed Use Credit: Have at least 3 of the following on site and/or within 1/4 mile: Residential Development, Retail Development, Personal Services, Open Space, Office	R, C, M	1.0	Cannot get points for both this measure and any "Convenience Services" measures. Also mutually exclusive with #29.
31	Neighborhood serving as focal point with parks, school and civic uses within 1/4 mile	R, M	0.5	Does not have to be a mixed use project to apply this measure.
32	Separate, safe, and convenient bicycle and pedestrian paths connecting residential, commercial, and office uses	R, C, M	2.0	Does not have to be a mixed use project to apply this measure.
33	The project provides a development pattern that eliminates physical barriers such as walls, berms, landscaping, and slopes between residential and non-residential uses that impede-bicycle or pedestrian circulation	R, C, M	1.0	Does not have to be a mixed use project to apply this measure.
Convenience Services				

34	Day care facilities are provided on site or within 1/4 mile of site	R, C, M	1.0 Onsite; 0.5 Offsite	
35	Restaurant or cafeteria on site or within 1/4 mile of site	R, C, M	0.2	
36	Bank or ATM on site or within 1/4 mile of site	R, C, M	0.2	
37	Dry cleaners on site or within 1/4 mile of site	R, C, M	0.2	
38	Post office on site or within 1/4 mile of site	R, C, M	0.2	
39	Entertainment (movie/video) on site or within 1/4 mile of site	R, C, M	0.2	
40	Recreation facility/fitness center on site or within 1/4 mile of site	R, C, M	0.2	
	Building Component Measures			
41	Install lowest emitting commercially available fireplace	R	1.0	
42	Install lowest emitting commercially available furnace	R, C, M	0.5	
43	Install ozone destruction catalyst on all air conditioning systems	R, C, M	2.5	In consultation with FRAQMD
44	Install EPA Energy Star approved roofing materials or install "Green Roof" Technology	C	0.5	Note: #49 and this measure may overlap; if both used then tbd. Energy Star Info: http://www.energystar.gov/
45	Provide fiber optic wiring and connections	R, C, M	0.5	
46	Provide-T1 wiring and connections	R, C, M	0.5	
47	Install roof photovoltaic energy systems	R	0.5	2.5 if offered as a standard feature on all homes
48	Innovative Energy-Efficient Technologies or measures exceeding Title 24 energy efficiency standards by 10% or more	R, C, M	tbd	Cannot use points for both this measure and #23, or other overlapping measures, unless they are uniquely different as determined by FRAQMD; Point values to be determined
49	Comply with EPA/DOE Energy Star Home energy standards	R	1.0	Cannot get points for both this measure and the above measure.

50	Orient 75 or more percent of homes and/or buildings to face either north or south (within 30 degrees of N/S), and include shrub/tree shading masterplan	R	0.5	Orient the placement of trees and shrubs near the building to shade the building, cool the soil and area around the building, and reduce direct solar radiation from entering the building through windows and from heating external building structures.
TDM and Misc. Measures				
51	Include permanent TMA membership and funding requirement. Funding to be provided by Community Facilities District or County Service Area or other non-revocable funding mechanism.	R, C, M	2.5	Join Yuba-Sutter Transportation Management Association. Contact Mr. Bill Fairbairn, Phone: (530) 669-1446, Email: bill@yolotma.org
52	Carpool Matching Assistance	C	0.2	Must be coordinated with TMA.
53	Provide financial incentives to carpoolers for vehicle tune-up or maintenance	R, C, M	0.2	Must be coordinated with TMA.
54	Provide Flextime for non-SOV (single occupancy vehicle) commuters	C	0.2	Must be coordinated with TMA.
55	Provide Guaranteed Ride Home	C	0.2	Must be coordinated with TMA.
56	Implement compressed work week schedules	C	0.2	Must be coordinated with TMA.
57	Provide on-site Employee Transportation Coordinator to work with TMA	R, C, M	0.2	Must be coordinated with TMA.
58	Contract only with commercial landscapers who operate with equipment that complies with the most recent California Air Resources Board certification standards, or standards adopted no more than three years prior to date of use.	C	2.0	
59	Make physical development consistent with requirements for neighborhood electric vehicles	R	1.5	
60	Install videoconferencing system	C, M	0.5	
61	Promote-teleworking and implement an employee telework policy	C, M	1.0	
62	Provide free-access telework terminals in multi-family projects	R	1.0	At least one terminal per 100 apartments

63	In consultation with FRAQMD: Implement Clean Air Business Practices. Adopted company policy/procedure or contractual documentation required	C	tbd	Examples: Using electric or low-emission light-duty fleet vehicles, contracting with alternative-fuel waste hauling companies, contracting with carrier, delivery, security, or other services utilizing electric, low-emission, alternative fuel, or utilizing heavy-duty vehicles that are CARB certified to optional low-emission standards for NOx.
64	Provide electric shuttle to transit stops	R, C, M	2.0	Maximum combined credit for measure #7 and #64 is 2.0
65	Provide a complimentary cordless electric lawnmower to each residential buyer	R	2.0	
66	Provide an opportunity to receive either a complimentary bicycle or electric bicycle retrofit kit to each residential buyer	R	0.5	
67	Transit pass subsidy and/or commute alternative allowance	C	1.5	Point value based on 100% subsidy.
Heavy-Duty Diesel Vehicle Fleet (>14,000 lbs gross vehicle weight)				
68	Repower/Retrofit heavy-duty diesel fleet with cleaner diesel engine technology and/or diesel particulate filter after-treatment technology	C, M	tbd	Local and State incentive funds may be available. Calculate emission reductions based on specific technology used.
69	Replace diesel fleet with alternative fuel engine technology and infrastructure	C, M	tbd	Local and State incentive funds may be available Calculate emission reductions based on specific technology used.
70	Replace auxilliary power units with cleaner engine technology, alternative fuels, or require electric connection while at loading dock	C, M	tbd	Local and State incentive funds may be available Calculate emission reductions based on specific technology used.
Mitigation Funding				
96	Contribute funding to the FRAQMD Pedestrian/Bicycle Infrastructure Program	R, C, M	tbd	Planned infrastructure must be in the General, Specific, or Community Plan or Master Bike Plan or approved by FRAQMD and applicable county/city planning staff.

97	Buy down diesel fleet emissions by implementing, or providing funds to FRAQMD to implement, an offsite Carl Moyer or Motor Vehicle Fund program (or equivalent) at a per ton cost to be determined.	C, M	tbd	Guidelines to be developed and approved by the FRAQMD Board of Directors.
98	Provide funding and/or resources for a Park and Ride Lot	R, C, M	0.5	In coordination with YSTA, YSTMA, and FRAQMD
Innovative Strategies				
99	Other proposed strategies, in consultation with City or County Planning and FRAQMD	R, C, M	tbd	

Notes:

- | | |
|---|---|
| 1 | tbd = to be determined by FRAQMD staff based on the specific criteria and emission factors associated with the measure. |
| 2 | YSTA = Yuba-Sutter Transit Authority |
| 3 | YSTMA = Yuba-Sutter Transportation Management Association |
| 4 | CARB = California Air Resources Board |



NATIVE AMERICAN HERITAGE COMMISSION

February 8, 2023

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City of Marysville
526 C Street
Marysville, CA 95901

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Re: 2023020168, Marysville General Plan Update, Specific Plan and Zoning Code Update Project, Yuba County

Dear Ms. Heredia:

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, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a.** Alternatives to the project.
 - b.** Recommended mitigation measures.
 - c.** Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a.** Type of environmental review necessary.
 - b.** Significance of the tribal cultural resources.
 - c.** Significance of the project's impacts on tribal cultural resources.
 - d.** If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a.** Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b.** Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

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

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

SB 18

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

Some of SB 18's provisions include:

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

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

NAHC Recommendations for Cultural Resources Assessments

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

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (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, subs. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

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

Sincerely,

Pricilla Torres-Fuentes

Pricilla Torres-Fuentes
Cultural Resources Analyst

cc: State Clearinghouse

