
1. INTRODUCTION

1. INTRODUCTION

PURPOSE OF THE DRAFT ENVIRONMENTAL IMPACT REPORT

The County of Merced is the lead agency under the California Environmental Quality Act (Public Resources Code Section 21000) (CEQA) for the preparation of this Draft Environmental Impact Report (DEIR). This DEIR (SCH # 2001021056) has been prepared in conformance with CEQA and the CEQA Guidelines to disclose the environmental impacts associated with the proposed University Community Plan (UCP). This DEIR evaluates the direct, indirect, and cumulative impacts of the planning, construction, and operation of the proposed UCP.

PROJECT BACKGROUND

In 1995, following the selection by the Regents of the University of California (UC) of the Lake Yosemite site in Merced County for the location of the 10th campus of UC (now known as UC Merced), the Merced County Board of Supervisors began to take steps to plan for and support the successful development of UC Merced. In 1996, the County established the University Community Specific Urban Development Plan (SUDP) and in doing so identified an area of approximately 10,300 acres in which the campus of UC Merced and surrounding supportive development and infrastructure were expected to occur.

In 1998 and 1999, the County participated with the University of California, the City of Merced, the Merced Irrigation District, the Virginia Smith Trust and the Cyril Smith Trust in the University Community Concept Planning Process. This planning process was intended to collaboratively establish basic planning principles that would form the foundation of physical planning of UC Merced and the surrounding support community, the University Community.

In 1999 and 2000, the County and the University jointly undertook extensive resource studies of the University Community SUDP, and initiated extensive discussions with State and federal regulatory agencies related to planning for the community and campus. As a result, the proposed location of the community was revised to that presented in this Draft EIR.

Concurrently, the County initiated the University Community Plan and EIR process. A Community Plan Advisory Committee (CPAC) was established to advise the County planning team and provide input to the University Community Plan. The CPAC meetings were open to the public and took place 28 times over two years. In addition, three public “planning fairs” or workshops were conducted in Merced and at other locations in the County.

The result of the extensive planning and public involvement process described above is the Draft UCP that is evaluated in this Draft EIR.

TYPE OF EIR

This EIR is considered a Program EIR, pursuant to Section 15168 of the CEQA Guidelines. A Program EIR assesses the impacts of a series of actions that can be characterized as one project and are related in one of the four ways described in Section 15168(a) of the CEQA Guidelines:

- (1) Geographically;
- (2) As logical parts in a chain of contemplated actions;
- (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or
- (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.

Consistent with Section 15146 of the CEQA Guidelines, the level of detail included in an EIR is guided by the level of specificity of the project under consideration. The proposed UCP establishes the policy and programmatic framework for preparation of subsequent specific plans. While this EIR analyzes full buildout of the UCP area, the UCP does not convey development entitlements; therefore, the level of detail in the impact analysis and the development of mitigation measures is consistent with the evaluation of a plan level document. A more detailed analysis and the development of more specific mitigation measures would occur as part of the separate environmental review process for subsequent specific plans.

INTENDED USE OF THIS EIR

The UCP has been prepared for a balanced and complete mixed-use, planned community and the infrastructure necessary to serve the multiple needs of the UC Merced campus, residents of the University Community, and the economic activities stimulated by the campus. This EIR provides a programmatic analysis from which future projects developed under the UCP, including subsequent specific plans, can be “tiered” (see Section 15152 of the State CEQA Guidelines). The tiering process will enable the County to streamline the environmental analysis of subsequent projects, focusing on those environmental concerns that are site- or project-specific, and on substantial changes in circumstances or in the project and on new information.

This EIR will be used for the following approvals necessary for the proposed UCP:

- General Plan Amendment to adopt the University Community Plan, modify the Land Use Diagram and Circulation Diagrams and change the University Community SUDP boundaries;

This EIR will also serve as the basis for the environmental review for the subsequent approvals by public agencies. Approvals from the Merced County Local Area Formation Commission (LAFCO) would include:

- Expansion of the City’s service district boundaries (e.g., City of Merced for water or wastewater, Merced Irrigation District for drainage) to include the project site, or creation of a new service district.

A detailed project description is provided in Chapter 2.

OTHER AGENCY APPROVALS

This EIR has been designed to provide information to a number of agencies to assist them in the permitting processes for the proposed UCP.

Section 404 Permit. Implementation of the proposed UCP would result in the filling of wetlands and other waters of the U.S. in the UCP area. The U.S. Army Corps of Engineers (USACE) regulates the nation's waterways and wetlands. USACE responsibilities include regulating activities in wetlands, including issuing dredge and fill permits and authorizing the establishment of wetland areas. The regulatory branch of the Army Corps is responsible for implementing and enforcing Section 404 of the federal Clean Water Act (CWA). Army Corps regulations require that any activity that discharges fill material and/or requires excavation in "waters of the United States" (see below), including wetlands, must obtain a Section 404 permit. As part of the permit process, mitigation for unavoidable impacts on wetlands is required. Mitigation can be in the form of wetland restoration, creation, enhancement, or preservation.

In issuing a Section 404 permit pursuant to Section 404(b), the USACE requires that an evaluation be conducted to demonstrate that the proposed project is the least environmentally damaging practicable alternative. The analysis included in Chapter 4 of this EIR provides the framework for the 404(b) alternatives analysis. The USACE is also required to comply with the National Environmental Protection Act (NEPA) before it may issue an individual Section 404 permit. This EIR provides a substantial source document for the USACE's NEPA compliance document.

Section 10 Compliance. Under the Rivers and Harbors Act of 1899, the USACE requires permits for activities involving the obstruction of the navigable capacity of any waters of the United States or the construction of structures or alteration of capacity in any port, canal, navigable river or other water of the United States. "Navigable waters" under Section 10 of the Rivers and Harbors Act are defined as "those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce." Pursuant to Section 10 of the Rivers and Harbors Act, the USACE administers this regulatory program separately from the Section 404 program. This EIR provides a substantial source document for the USACE's NEPA compliance document for the issuance of a Section 10 permit, should one be necessary for the project. At this time, the development of the UCP is not anticipated to require a permit from the USACE under Section 10.

Section 401 Water Quality Certification. The State Water Quality Control Board and the Regional Water Quality Control Boards (RWQCB) promulgate and enforce narrative and numeric water quality standards in order to protect water quality and adopt and approve Water Quality Control Plans (Basin Plans). The State Board and the Regional Boards also regulate discharges of harmful substances to surface waters including wetlands under the federal Clean Water Act (CWA) and the California Porter-Cologne Water Quality Control Act (Porter-Cologne). Issuance of a Section 404 permit is subject to water quality certification under Section 401 of the Clean Water Act.

The RWQCB would use this EIR to make a determination whether the filling of wetlands due to project implementation would result in water quality impacts under the Clean Water Act or the Porter-Cologne Act.

Waste Discharge Requirements. Under the Porter-Cologne Act, the RWQCBs regulate the discharge of “waste” into “waters of the state.” Water Code Section 13260 requires “any person discharging, or proposing to discharge waste, within any region that could affect the waters of the state to file a report of discharge.” A report of waste discharge (“RWD”) is essentially an application for waste discharge requirements (“WDRs”). WDRs contain conditions imposed on a given discharge by the appropriate RWQCBs for the purpose of protecting the beneficial uses of the waters of the state. Upon receipt of a RWD, the RWQCB may issue WDRs imposing conditions on the proposed discharge, or it may waive the requirement for WDRs. In the event that the Central Valley RWQCB determines WDRs are necessary, the Central Valley RWQCB would use this EIR to make a determination whether WDR’s should be issued for the project.

Section 7 Consultations of the Federal Endangered Species Act requires a federal agency (in this case the USACE with regard to the issuance of a Section 404 permit) to seek formal consultation with the U.S. Fish and Wildlife Service (USFWS) for species listed as threatened or endangered, or proposed for listing as threatened or endangered. Based on this consultation the USFWS issues a biological opinion determining whether the project is likely to adversely affect or jeopardize the continued existence of a federally listed species, or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. Substantial information regarding federal special-status species is presented in Section 4.4, Biological Resources of this EIR.

Section 106 Compliance. The National Historic Preservation Act of 1966 (NHPA), as amended: 16 USC § 470 et seq.; Section 106; 36 CFR 800, includes provisions for protection of significant archaeological and historical resources. Procedures for dealing with previously unsuspected cultural resources discovered during construction are identified in 36 CFR 800 (for implementing § 106 processes.) The administering agency is the State Historic Preservation Officer (SHPO) and the federal lead agency. Through the NEPA process the Army Corps of Engineers would consult with the SHPO to determine the federal project’s compliance with Section 106. Section 4.5, Cultural Resources, provides information on archaeological and historical resources in the UCP area.

Section 1601 Permit. The California Department of Fish and Game (CDFG) requires notification for any project or activity that will take place in or in the vicinity of a river, stream, lake, or its tributaries. Section 1601 (1603 for private entities) of the Fish and Game Code requires that State or local governmental agencies notify CDFG before they begin any construction project that will: (1) divert, obstruct, or change the natural flow or the bed, channel, or bank of any river, stream, or lake; (2) use materials from a streambed; or (3) result in the disposal or disposition of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into any river, stream, or lake.

The proposed UCP would result in alterations to the bed and bank of Cottonwood Creek and would require a Streambed Alteration Agreement from the CDFG pursuant to Section 1601. The CDFG is required to base its decision with respect to a streambed alteration agreement on a CEQA compliance document. This EIR has been developed to provide the CDFG with an evaluation of likely impacts of the proposed UCP on Cottonwood Creek to facilitate the permitting process.

Section 2081 Compliance. Section 2081 of CESA permits individuals to take endangered or threatened species provided that: (1) the take is incidental to an otherwise lawful activity; (2) the impacts of the authorized take are minimized and fully mitigated; (3) the take permit is consistent with the California Department of Fish and Game’s (CDFG) recovery programs; (4) the applicant ensures adequate funding to

implement the mitigation and monitoring program; and (5) the action will not jeopardize the continued existence of the species. In addition, the CDFG encourages informal consultation on any proposed project which may impact a candidate species.

Section 2080.1 Compliance. Section 2080.1 of CESA states that if an individual obtains an incidental take statement or an incidental take permit from the Secretary of the Interior or the Secretary of Commerce that authorizes the taking of an endangered species or a threatened species that is listed pursuant to Section 1533 of Title 16 of the United States Code and that is an endangered species, threatened species, or a candidate species pursuant to chapter 1.5 of California Fish and Game Code, then no further authorization or approval is necessary for that individual to take that endangered species, threatened species, or candidate species identified in, and in accordance with the incidental take statement or incidental take permit as long as the taking is incidental to an otherwise lawfully conducted activity.

NPDES Permits. The Clean Water Act (CWA) requires a National Pollution Discharge Elimination System (NPDES) permit for any discharge of pollutants from a point source to waters of the United States. This law and its regulations also apply to storm water. In 1987, Congress amended the CWA to require implementation, in two phases, of a comprehensive national program for addressing storm water discharges. Phase I required NPDES permits for storm water discharge from a large number of priority sources including medium and large municipal separate storm sewer systems (MS4s) and several categories of industrial activity, including construction activity that disturbs 5 or more acres of land. Phase II of the storm water program requires permits for storm water discharges from certain small municipal separate storm sewer systems and construction activity generally disturbing between 1 and 5 acres. The proposed UCP would be subject to these Phase II requirements. The construction of Phase I of the proposed UCP would be subject to Phase I NPDES requirements for construction projects.

Authority to Construct and Permit to Operate. San Joaquin Valley Unified Air Pollution Control District Authority (SJVUAPCD) Rule 2010 regulates the construction, alteration, replacement, and operation of stationary sources of air contaminant emission through the issuance of air permits (i.e., Authority to Construct (ATC) and Permit to Operate (PTO)). This permitting process allows the SJVUAPCD to adequately review new and modified air pollution sources to ensure compliance with all applicable rules and to ensure that emission controls are used. An ATC allows for the construction of the air pollution source and remains in effect until the PTO application is granted, denied, or cancelled. The ATC includes construction standards and emission limits that must be achieved before an issuance of a PTO. Once the project commences operation and demonstrates compliance with the ATC conditions, the SJVUAPCD will issue a PTO. The PTO specifies conditions that the air pollution source must meet to continue to comply with other air quality standards. Potential stationary sources that could require an air permit include a cogeneration plant and large boilers.

SCOPE OF THE EIR

This DEIR describes the existing environmental resources within the UCP area, analyzes potential impacts on those resources due to the proposed UCP, and identifies mitigation measures to reduce significant impacts. The proposed UCP serves as the basis for the environmental analysis presented in the DEIR. The effects analyzed span a variety of subject areas, including land use and planning; agricultural resources; soils, geology and seismicity; hydrology and water quality; biological resources; cultural resources; aesthetics; hazardous materials; transportation and circulation; air quality; noise; public services; utilities; and recreation. The evaluation of these effects is presented on a resource-by-resource basis in Chapter 4, Environmental Analysis,

in Sections 4.1 through 4.15. Each section is divided into three parts: Environmental Setting, Regulatory Setting, and Impacts and Mitigation Measures.

Thirteen alternatives, including a No Project alternative, are analyzed in this DEIR. These alternatives, and others considered but not analyzed in detail, are discussed in Chapter 5, Alternatives Analysis. Other issues required to be considered under CEQA, such as cumulative impacts and growth-inducing effects resulting from implementation of the proposed UCP project are analyzed in Chapters 6 and 7, respectively.

CEQA PROCESS

As provided in the CEQA Guidelines, public agencies are charged with the duty to avoid or substantially reduce significant environmental damage where feasible. In discharging this duty, the public agency has an obligation to balance a variety of public objectives, taking into account economic, environmental, and social issues. The EIR is an informational document that informs public agency decision makers and the general public of the significant environmental effects of a proposed project. An EIR must identify possible means to minimize the significant effects and describe reasonable alternatives to the project. The lead agency, Merced County, is required to consider the information in the EIR along with any other available information in making its decision. The basic informational requirements for an EIR include discussions of the environmental setting, environmental impacts, mitigation measures, alternatives, significant irreversible changes, growth-inducing impacts, and cumulative impacts.

It should be noted that the EIR attempts to quantify the project and associated impacts, as specifically as possible. Though used for analytical purposes, the numbers employed in the impact analyses are approximations. Actual numbers may vary slightly, with no invalidation of this analysis or its conclusions.

PUBLIC REVIEW

In accordance with the CEQA Guidelines, a Notice of Preparation (NOP) was prepared on February 15, 2001, and distributed to responsible and trustee agencies, interested parties and organizations, as well as private organizations and individuals that have stated an interest in the project. The purpose of the NOP was to provide notification that an EIR for the project was being prepared and to solicit guidance on the scope and content of the document. Responses were received from agencies, organizations, and individuals. The NOP is included in Appendix A of this DEIR; responses to the NOP are provided in Appendix B.

This DEIR and all documents referenced therein are available for public review at Merced County, UC Merced Development Office, 3351 M Street, Suite 240, Merced, CA 95348.

This DEIR was publicly circulated on August 13, 2001 for a 45-day period of public review and comment. Public hearings regarding the information contained in this DEIR will be held during the 45-day public comment period. This period ends September 27, 2001. During this period, the general public, organizations, and agencies may submit comments to the lead agency on the DEIR's accuracy and completeness.

The Final EIR (FEIR) will include both written and oral comments on the DEIR received during the public review period and responses to those comments, as well as any revisions to the DEIR made in response to public comments. The DEIR and FEIR will comprise the EIR for the UCP.

Prior to adopting the project, the lead agency is required to certify that the EIR has been completed in compliance with CEQA, that the decision-making body reviewed and considered the information in the EIR, and that the EIR reflects the independent judgment of the lead agency. The FEIR will be reviewed by the Merced County Board of Supervisors for certification in accordance with CEQA and the County's Guidelines. Written findings of fact for each significant environmental impact identified in the EIR will be prepared by the lead agency to:

- Determine if the proposed project has been changed to avoid or substantially reduce the magnitude of the impact;
- Find that changes to the proposed project are within another agency's jurisdiction, and such changes have been or should be adopted; or
- Find that specific economic, social, or other considerations make mitigation measures or proposed project alternatives infeasible.

The findings of fact prepared by the lead agency must be based on substantial evidence in the administrative record and must include an explanation that bridges the gap between evidence in the record and the conclusions required by CEQA. Based on these findings, the lead agency may also prepare a Statement of Overriding Considerations (Statement) as part of the project approval process. If the decision-making body elects to proceed with a project that would have significant impacts, then the Statement explaining the decision to balance the benefits of the project against unavoidable environmental impacts must be prepared.

LEVELS OF SIGNIFICANCE

The CEQA Guidelines define a significant effect on the environment as "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic and aesthetic significance" (CEQA Guidelines, Section 15382). For all environmental issues addressed in this EIR, specific standards of significance are identified. Definitions of significance vary with the physical conditions affected and the setting in which the change occurs. Depending on the impact area, the standards are based on the CEQA Guidelines, the County's General Plan, other applicable regional plans and, in some cases, professional judgment.

Section 16064 (2)(b) of the Guidelines states "The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area. In addition, to determine if an effect will be adverse or beneficial, the Guidelines go on to state, "...the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency".

Where explicit quantification of significance is identified, such as a violation of an ambient air quality standard, this quantity is used to assess the level of significance of a particular impact in this DEIR. For less easily quantifiable impacts, events or occurrences that would be regarded as significant or potentially significant were identified. For example, a criterion for determining the level of significance of the loss of a

particular habitat would be that habitat's importance to rare or endangered species and/or whether the habitat itself has become depleted within the region.

This assessment of levels of significance promotes consistent evaluation of impacts for all alternatives considered.

LEAD AGENCY

The County of Merced is the lead agency for preparation of the University Community Plan environmental analysis. In conformance with Sections 15050 and 15367 of the State CEQA Guidelines, the County of Merced has been designated the "lead agency" which is defined as the "public agency which has the principal responsibility for carrying out or disapproving a project."

LEAD AGENCY CONTACT

Mr. Robert Smith
Planning Director
UC Merced Development Office
3351 M Street, Suite 240
Merced, CA 95348

HOW TO USE THIS REPORT

This report includes eight principal parts: Project Description; Summary of Impacts and Mitigation Measures; Demographic Characteristics; Environmental Analysis (Setting, Impacts, and Mitigation Measures); Alternatives Analysis; Growth-Inducement; Other CEQA Considerations; and Appendices.

The **Project Description** includes a discussion of the location of the UCP area and the proposed UCP.

The **Summary of Impacts and Mitigation Measures** presents an overview of the results and conclusions of the environmental evaluation. This section identifies project and cumulative impacts and available mitigation measures for use by the County in reviewing the UCP and establishing conditions under which the proposed UCP may be developed.

The **Demographic Characteristics** chapter reviews the existing population, employment, and housing conditions in Merced County, and evaluates the anticipated changes to these conditions that could result from the proposed UCP.

The **Environmental Analysis** includes a topic-by-topic analysis of impacts that would or could result from implementation of the proposed UCP. The results of field visits, data collection, and review and agency contacts are presented in the text.

The **Alternatives Analysis** chapter includes an assessment of alternative methods for accomplishing the basic objectives of the proposed UCP. This assessment, required under CEQA, must provide adequate information

for decision makers to make a reasonable choice between alternatives based on the environmental aspects of the proposed project and alternatives.

The **Growth Inducement** chapter evaluates the extent to which the proposed UCP would induce growth elsewhere in the County.

Other CEQA Considerations includes a discussion of other issues required by CEQA, irreversible environmental changes, cumulative impacts and significant and unavoidable impacts.

The **Appendices** contain a number of reference items providing support and documentation of the analysis performed for this report.