

Letter A

**RINCON BAND OF LUISEÑO INDIANS**  
**Cultural Resources Department**

10000 La Jolla Village Center, Suite 200, San Diego, CA 92121  
Phone: (619) 594-2600 Fax: (619) 594-2601



April 7, 2017

Chris Tracy  
City of San Diego  
Development Services Center  
1222 First Avenue, MS 501  
San Diego, CA 92101

**Re: N. University Fire Station 50 SDP Project No. 463835**

Dear Mr. Tracy:

This letter is written on behalf of the Rincon Band of Luiseño Indians. Thank you for inviting us to submit comments on the N. University Fire Station 50 SDP Project No. 463835. Rincon is submitting these comments concerning your projects potential impact on Luiseño cultural resources.

The Rincon Band has concerns for the impacts to historic and cultural resources and the finding of items of significant cultural value that could be disturbed or destroyed and are considered culturally significant to the Luiseño people. This is to inform you, your identified location is not within the Luiseño Aboriginal Territory. We recommend that you locate a tribe within the project area to receive direction on how to handle any inadvertent findings according to their customs and traditions.

If you would like information on tribes within your project area, please contact the Native American Heritage Commission and they will assist with a referral.

Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

Vincent Whipple  
Manager  
Rincon Cultural Resources Department

Letter A - Response

Comment Noted.

Bo Mazzetti  
Tribal Chairman

Fishmall Turner  
Vice Chairman

Steve Stallings  
Council Member

Laurie E. Gonzalez  
Council Member

Alfonso Kolb  
Council Member

Letter B

Letter B - Response

Comment Noted.



**San Diego County Archaeological Society, Inc.**

Environmental Review Committee

10 April 2017

To: Mr. Chris Tracy  
Development Services Department  
City of San Diego  
1222 First Avenue, Mail Station 501  
San Diego, California 92101

Subject: Draft Mitigated Negative Declaration  
North University Fire Station 50 Site Development Plan  
Project No. 463835

Dear Mr. Tracy:

I have reviewed the subject DMND on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in The DMND and the archaeological study prepared by RECON, we agree with both the impact analysis in the RECON report and the mitigation program in the DMND.

Thank you for including SDCAS in the public review of this DMND.

Sincerely,

A handwritten signature in dark ink, appearing to read "James W. Royle, Jr.", written over the printed name.

James W. Royle, Jr., Chairperson  
Environmental Review Committee

cc: RECON  
SDCAS President  
File

# LETTER C

STATE OF CALIFORNIA  
NATIVE AMERICAN HERITAGE COMMISSION  
Environmental and Cultural Department  
1550 Harbor Blvd., Suite 100  
West Sacramento, CA 95691  
Phone (916) 373-3710  
Fax (916) 373-5471

Edmund G. Brown Jr., Governor



April 14, 2017

Chris Tracy, AICP, Associate Planner  
City of San Diego  
1222 First Avenue, MS 501  
San Diego, CA 92101

Sent via e-mail: DSDEAS@sandiego.gov

Re: SCH# 2017041015, N. University Fire Station 50 SDP Project, City of San Diego; San Diego County, California

Dear Mr. Tracy:

The Native American Heritage Commission (NAHC) has reviewed the Mitigated Negative Declaration prepared for the project referenced above. The review included the Project Description, the Specific MMRP Issue Area Conditional Regulations, and the Evaluation of Environmental Impacts prepared by the City of San Diego. We have the following concerns:

C1

- There is no Tribal Cultural Resources section or subsection in the Executive Summary as per California Natural Resources Agency (2016) "Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form," <http://resources.ca.gov/ceqa/docs/ab52/Clean-final-AB-52-App-G-text-Submitted.pdf>

C2

- Mitigation for inadvertent finds of human remains (MMRP Section IV- Human Remains) is incomplete or inaccurate. Please refer to California Public Resources Code 5097.98 for the process of designating a MLD for human remains determined to be Native American.

The California Environmental Quality Act (CEQA)<sup>1</sup>, specifically Public Resources Code section 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.<sup>2</sup> 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.<sup>3</sup> 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 project effect (APE).

C3

CEQA was amended in 2014 by Assembly Bill 52. (AB 52).<sup>4</sup> AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015. AB 52 created a separate category for "tribal cultural resources", that now includes "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."<sup>5</sup> Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.<sup>6</sup> Your project may also be subject to Senate Bill 18 (SB 18) (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. Both SB 18 and AB 52 have tribal consultation requirements. Additionally, 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<sup>7</sup> may also apply.

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

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Consultation Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online

<sup>1</sup> Pub. Resources Code § 21000 et seq.

<sup>2</sup> Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)

<sup>3</sup> Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15094 (a)(1)

<sup>4</sup> Government Code 65352.3

<sup>5</sup> Pub. Resources Code § 21074

<sup>6</sup> Pub. Resources Code § 21084.2

<sup>7</sup> Pub. Resources Code § 21084.3 (a)

<sup>8</sup> 154 U.S.C. 300101, 36 C.F.R. § 800 et seq

## Letter C Response

Thank you Ms. Totton for your input on this project.

Please see the following responses concerning your letter dated 4/14/17 transmitted via email 4/14/17:

### Response C1

Comment Noted. The Initial Study has been revised to include all updates as indicated in the Appendix G link. It should be noted that the draft Initial Study under the Cultural Resources section contained a discussion concerning AB 52 Consultation and the outcomes from that process. The updates incorporated fall under "project clarification" in terms of recirculation.

### Response C2

Comment Noted. Section IV – Discovery of Human Remains as contained within the Historical Resources -Mitigation, Monitoring and Report Program (MMRP) is not incomplete or inaccurate. The MMRP as written was developed in consultation with prior staff from the NAHC in 2010/2011 in response to issues raised by the local Native American Kumeyaay community. The entire MMRP was provided to all San Diego County, Native American tribes (Kumeyaay and Luiseno), and local professional archaeologists for review/comment, and was also vetted at the state level through the Society for California Archaeology – Native American Programs Committee (NAPC) before being formally incorporated into CEQA documents prepared by the City of San Diego.

The program expands on the established language provided in the Public Resources Code and Health and Safety Code at the request of the local Kumeyaay groups to further define roles and responsibilities of all parties, and to ensure proper identification, treatment and disposition with dignity is carried out in a manner consistent with state law and tribal requirement in a timely manner. This program has been in place for over 6 years and is successful because of the detail provided and the commitments made by the City at the highest levels to ensure that inadvertent discovery of human remains are treated with the utmost respect in accordance with all applicable local, state and/or federal laws and statutes.

### Response C3

Comment Noted. The project is only subject to tribal consultation in accordance with Assembly Bill 52 (AB 52) and is not subject to consultation under Senate Bill 18 (SB 18) as there is no adoption of, or amendment to a general plan or specific plan, or the designation or proposed designation of open space with this project. Furthermore, the project is not subject to review under the National Environmental Policy Act (NEPA). Tribal consultation under AB 52 was conducted on July 14, 2017 with representatives from the Lipay Nation of San Ysabel and the Jamul Indian Village, and resulted in mutual government to government agreement that: 1) no additional mitigation would be required for potential impacts to tribal cultural resources beyond the archaeological mitigation and monitoring disclosed in the draft MND, and, 2) mutual government to government agreement that tribal consultation for this project concluded on July 14, 2017.

at [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf), entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

The NAHC recommends lead agencies consult with all 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.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

Please contact me at [gayle.totton@nahc.ca.gov](mailto:gayle.totton@nahc.ca.gov) or call (916) 373-3710 if you have any questions.

Sincerely,



Gayle Totton, B.S., M.A., Ph.D  
Associate Governmental Project Analyst

Attachment

cc: State Clearinghouse

## Letter C Response

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**Pertinent Statutory Information:**

**Under AB 52:**

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

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.

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,<sup>9</sup> and **prior to the release of a negative declaration, mitigated negative declaration or environmental impact report.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18)."<sup>10</sup>

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.<sup>11</sup>

1. 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.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.<sup>12</sup>

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 sections 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.<sup>13</sup>

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 section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.<sup>14</sup>

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.<sup>15</sup>

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 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 section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.<sup>16</sup>

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 section 21084.3 (b).<sup>17</sup>

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 sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 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.

<sup>9</sup> Pub. Resources Code § 21080.3.1, subds. (d) and (e)

<sup>10</sup> Pub. Resources Code § 21080.3.1 (b)

<sup>11</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>12</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>13</sup> Pub. Resources Code § 21082.3 (c)(1)

<sup>14</sup> Pub. Resources Code § 21082.3 (b)

<sup>15</sup> Pub. Resources Code § 21080.3.2 (b)

<sup>16</sup> Pub. Resources Code § 21082.3 (a)

<sup>17</sup> Pub. Resources Code § 21082.3 (e)

**Letter C Response**

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## Letter C Response

- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.<sup>18</sup>  
*This process should be documented in the Tribal Cultural Resources section of your environmental document.*

### Under SB 18:

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of "preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county's jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to local governments and requires them 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. 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/dgcs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/dgcs/09_14_05_Updated_Guidelines_922.pdf)
- **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.<sup>19</sup>
- **There is no Statutory Time Limit on Tribal Consultation under the law.**
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,<sup>20</sup> 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 sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction.<sup>21</sup>
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
  - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - 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.<sup>22</sup>

### NAHC Recommendations for Cultural Resources Assessments:

- Contact the NAHC for:
  - 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.
  - A Native American Tribal Contact 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.
    - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - If part or the entire APE has been previously surveyed for cultural resources.
  - If any known cultural resources have been already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- 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.
  - 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.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

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<sup>18</sup> Pub. Resources Code § 21082.3 (d)

<sup>19</sup> Gov. Code § 65352.3 (a)(2)

<sup>20</sup> pursuant to Gov. Code section 65040.2,

<sup>21</sup> (Gov. Code § 65352.3 (b)).

<sup>22</sup> (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

**Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**

- o Avoidance and preservation of the resources in place, including, but not limited to:
  - Planning and construction to avoid the resources and protect the cultural and natural context.
  - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- o 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:
  - Protecting the cultural character and integrity of the resource.
  - Protecting the traditional use of the resource.
  - Protecting the confidentiality of the resource.
- o 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.
- o 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.<sup>23</sup>
- o Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.<sup>24</sup>

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- o Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.<sup>25</sup> 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.
- o 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.
- o 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 section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 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.

**Letter C Response**

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<sup>23</sup> (Civ. Code § 815.3 (c)).

<sup>24</sup> (Pub. Resources Code § 5097.991).

<sup>25</sup> per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).

## Letter D



Matthew Rodriguez  
Secretary for  
Environmental Protection



### Department of Toxic Substances Control

Barbara A. Lee, Director  
5796 Corporate Avenue  
Cypress, California 90630



Edmund G. Brown Jr.  
Governor

April 25, 2017

Mr. Chris Tracy, AICP  
Associate Environmental Planner  
City of San Diego Development Services Center  
1222 First Avenue, MS 501  
San Diego, California 92101

#### INITIAL STUDY AND PROPOSED MITIGATED NEGATIVE DECLARATION (ND) FOR N. UNIVERSITY FIRE STATION 50 SDP PROJECT (SCH# 2017041015)

Dear Mr. Tracy:

The Department of Toxic Substances Control (DTSC) has reviewed the subject ND. The following project description is stated in the ND: "SITE DEVELOPMENT PERMIT (CIP-2) for the development of a new three story 16,077 sq. ft. fire Station within ESL (Environmentally Sensitive Lands). The project site is located in the University City Community Plan area within the City of San Diego."

Based on the review of the submitted document DTSC has the following comments:

- D1 → 1. The ND should identify and determine whether current or historic uses at the project site may have resulted in any release of hazardous wastes/substances. A Phase I Environmental Site Assessment may be appropriate to identify any recognized environmental conditions.
- D2 → 2. If there are any recognized environmental conditions in the project area, then proper investigation, sampling and remedial actions overseen by the appropriate regulatory agencies should be conducted prior to the new development or any construction.
- D3 → 3. If the project plans include discharging wastewater to a storm drain, you may be required to obtain an NPDES permit from the overseeing Regional Water Quality Control Board (RWQCB).
- D4 → 4. If planned activities include building modifications/demolitions, lead-based paints or products, mercury, and asbestos containing materials (ACMs) should be addressed in accordance with all applicable and relevant laws and regulations.

## Letter D - Response

Thank you for your input on this project.

Please see the following responses concerning your letter dated 4/25/17:

### Response D1

Comment Noted. The project site was not listed in any of the databases for hazardous materials including being listed in the State Water Resources Control Board GeoTracker system or the Department of Toxic Substances Control EnviroStor Data Management System, which includes CORTESE sites.

### Response D2

Comment Noted. This will implemented accordingly.

### Response D3

Comment Noted. No wastewater is proposed to be disposed into a storm drain.

### Response D4

Comment Noted. The project does not propose such modifications.



**Letter D - Response**

Response D5

Comment Noted. The project was not used for such activities.

Response D6

Comment Noted. There are no known soil contaminants based on the geotechnical investigation that has been conducted for the site.

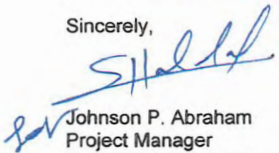
Response D7

Comment Noted. There are no known soil contaminants based on the geotechnical investigation that has been conducted for the site.

5. If the site was used for agricultural or related activities, residual pesticides may be present in onsite soil. DTSC recommends investigation and mitigation, as necessary, to address potential impact to human health and environment from residual pesticides.
6. If the project development involves soil export/import, proper evaluation is required. If soil contamination is suspected or observed in the project area, then excavated soil should be sampled prior to export/disposal. If the soil is contaminated, it should be disposed of properly in accordance with all applicable and relevant laws and regulations. In addition, if imported soil was used as backfill onsite and/or backfill soil will be imported, DTSC recommends proper evaluation/sampling is necessary to ensure the backfill material is free of contamination.
7. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the ND should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight.

If you have any questions regarding this letter, please contact me at (714) 484-5380 or email at [Johnson.Abraham@dtsc.ca.gov](mailto:Johnson.Abraham@dtsc.ca.gov).

Sincerely,

  
Johnson P. Abraham  
Project Manager

Brownfields Restoration and School Evaluation Branch  
Brownfields and Environmental Restoration Program - Cypress

kl/sh/ja

cc: See next page.

**Letter D - Response**

cc: Ms. Lindsay Hashimoto (via e-mail)  
Senior Planner  
Office of Environmental Planning and Sustainability  
University of California, Irvine  
[Lhashimoto@uci.edu](mailto:Lhashimoto@uci.edu)

Governor's Office of Planning and Research (via e-mail)  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044  
[State.clearinghouse@opr.ca.gov](mailto:State.clearinghouse@opr.ca.gov)

Mr. Guenther W. Moskat, Chief (via e-mail)  
Planning and Environmental Analysis Section  
CEQA Tracking Center  
Department of Toxic Substances Control  
[Guenther.Moskat@dtsc.ca.gov](mailto:Guenther.Moskat@dtsc.ca.gov)

Mr. Dave Kereazis (via e-mail)  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)

Mr. Shahir Haddad, Chief (via e-mail)  
Schools Evaluation and Brownfields Cleanup  
Brownfields and Environmental Restoration Program - Cypress  
[Shahir.Haddad@dtsc.ca.gov](mailto:Shahir.Haddad@dtsc.ca.gov)

CEQA# 2017041015

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## **Letter E**

May 1, 2017

Louis Rodolico  
5906 Dirac Street  
San Diego, CA 92122  
858-625-4453

Chris Tracey  
AICP Environmental Planner  
City of San Diego Development Services Center  
1222 First Avenue  
MS 501  
San Diego, CA 92101  
E-Mail [DSDEAS@sanidiego.gov](mailto:DSDEAS@sanidiego.gov)

Re: N. University Fire Station 50 SDP  
Project #: 463835  
University, Council District 1

Dear M. Tracey:

I am a resident of East University City (UC) and have lived in UC since 2001. Most East UC residents are in favor of fire station 50 being placed in a better location. The current location is; 1 ½ miles from station 35, has the Marine air base to the east and a canyon to the south. For these reasons it is a poor placement and does not deliver much bang for the buck.

However if it is built at Nobel and Shoreline then Citygate is still recommending another fire station in University City along Governor Drive. This means we will need to build two stations where one would provide better overall coverage. I am aware of the long ladder requirement for high rise structures. I have outlined these positions in the two attached Clairemont Times articles.

Please read these articles. If it is eventually determined to move the fire station away from Shoreline and Nobel then I would ask to be on the UCPG fire station subcommittee to identify the proper location for fire station 50.

Thank You

Louis A. Rodolico

## **Letter E - Response**

Comment Noted. Please see email response below.

**Tracy, Christopher**

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**From:** Tracy, Christopher on behalf of DSD EAS  
**Sent:** Monday, May 01, 2017 10:42 AM  
**To:** 'lourodolico@yahoo.com'  
**Cc:** Monroe, Daniel; 'janay\_kruger@msn.com'; Deisher, Helene  
**Subject:** RE: N. University Fire Station 50 SDP Project No. 463835 University, Council District 1  
**Attachments:** Fire Station 50 Project No. 463835.pdf

Dear Mr. Rodolico,

Email received. Thank you for providing comments with respect to the draft CEQA document for this project. In terms of the selected location, which is a broader Planning issue, I will have to direct you to have those comments addressed by Long Range Planning and the Local Planning Group (Copied to the email).

Sincerely,

**Chris Tracy, AICP**  
Associate Planner  
City of San Diego  
Development Services

T (619)-446-5381  
[sandiego.gov](http://sandiego.gov)

### **CONFIDENTIAL COMMUNICATION**

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**From:** Louis Rodolico [mailto:[lourodolico@yahoo.com](mailto:lourodolico@yahoo.com)]  
**Sent:** Monday, May 01, 2017 8:32 AM  
**To:** DSD EAS <[DSDEAS@sanidiego.gov](mailto:DSDEAS@sanidiego.gov)>  
**Cc:** Monroe, Daniel <[DMMonroe@sanidiego.gov](mailto:DMMonroe@sanidiego.gov)>; Janay Kruger <[janay\\_kruger@msn.com](mailto:janay_kruger@msn.com)>  
**Subject:** N. University Fire Station 50 SDP Project No. 463835 University, Council District 1

See attached PDF.  
Please confirm receipt.  
Thank You  
Louis Rodolico

**Letter E - Response**

**One Fire Station or Two, 2016 Ballot Looms**

*Commentary by Louis Rodolico*

If all crew members from a fire station are on call, and another call comes in, it falls to the neighboring fire stations to lend support. It therefore becomes important that all fire stations be able to get to their neighbors area as quickly as possible. Surrounded by interstates, landfills and a Military base; Clairemont, University City and UTC are good examples of fire stations that share a co-dependency. Station 35 in UTC and Station 27 in Clairemont have been sharing responsibility for University City for years.

University City recently put into operation a Fast Response Squad (FRS). The FRS is at Governor and Stresemann in extreme west UC with equivalent service times and distance to west Clairemont and southeast UC. See attaches illustration F-2. Southeast UC is still vulnerable to poor service times due to both extra distance and traffic. Currently West Clairemont has Station 27 and the FRS during rush hours. During PM rush 27 can still support 35. For now the only area without a primary fire station is southeast UC. This is unfortunate since the 55+ community near Governor and Gullstrand, in southeast UC, is rapidly expanding.

There is a general consensus that both the FRS and new Fire Station should be between Genesee and Mercer on Governor. This more central location does several things:

- 1) Places all houses in UC within 2 miles of a Fire Station.
- 2) Provides backup for both west and central Clairemont at AM rush.
- 3) Provides backup for west Clairemont during PM rush
- 4) Provides backup for UTC at PM rush.
- 5) Good location for school group tours.

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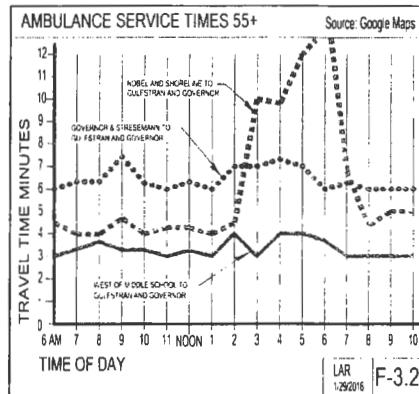
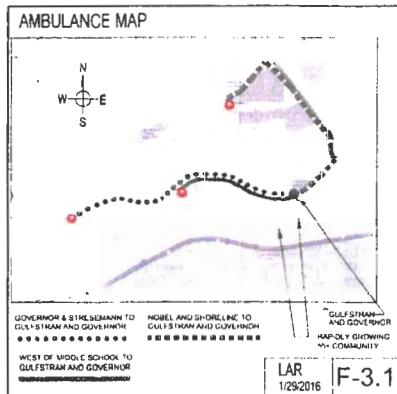


The new UC Fire Station or FRS could only provide timely backup for central Clairemont PM rush and UTC AM rush if the Regents Road Bridge were completed.

A central location for a Fire Station is preferred since the benefits radiate out from it. There is a temptation for City officials to look only at available city land assets in placing new fire stations. The 2 new ballot proposed Fire Stations at Nobel and South UC are both sited on city land at the periphery of the community. A new central UC Fire Station will need to be on land not currently in the cities asset inventory, this means more work. Work that will translate into minutes off of trips to residents in crisis. Two minutes is the difference between coma and consciousness, paralysis and mobility.

Illustration F-1 shows the preferred location of the new central UC Fire Station. At this location all residences in UC are within two miles. It is not only central to the community but is well positioned to support stations to the north and south.

Map F-3.1 shows the locations of the three potential fire stations. The 55+ community is at the intersection of Gullstrand and Governor, this location is used as a benchmark for Ambulance arrival time; F-3.2. Ambulance calls go up gradually after 8AM, peak between 5 PM & 6 PM and drop off at 8PM. The best overall performance is the new central Fire Station just west of the Middle School. This one central Fire Station location also will serve UTC and Clairemont better as well.



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Ambulance to Hospital times will improve if the North-South secondary road system is completed, or building the Regents Road Bridge. 85% of all 911 calls are ambulance related. So since 35 & 27 have the full range of fire-fighting apparatus the new station in UC could be a double ambulance station with rescue personnel certified and equipped to enter a smoke filled building.

It is politically easy to build the two proposed Fire Stations, the city already owns the land so there would be minimal up front work. It will be difficult to build one central Fire Station, land would need to be acquired from the School District and neighbors compensated. San Diego High School is currently in a dispute to keep their land in Balboa Park, with good will and a little horse trading UC could acquire a spit of land just west of the Middle School. That's extra work but the work of smart governance. With the 2016 Fire Station Ballot coming up it would be great politics to show the city is willing to dig in, work hard and build the one central Fire Station that does the most good. This would not only be the humanitarian thing to do but would save the taxpayers 232 million dollars over the next century.

Louis Rodolico has been a resident of University City since 2001 and has been a pro-bono community advocate for over 30 years.

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[louisrodolico.com](http://louisrodolico.com)





## Letter E - Response

### **San Diego Fire Stations - 2017 Citygate Report**

*City cries budget shortfall but continues to green light non-optimal projects*

*Commentary  
Louis Rodolico*

The February 2017 Citygate report was just issued, 84% of calls are medical and 2.39% are for fires. The reports analysis is limited and does not show; FRS 56 in West UC, ambulance times and the effects on patient outcomes by not building the Governor to I-5 connector or the Regents Road Bridge. The old 2010 Citygate report used radii to determine both the UCSD and 50 fire stations proposed locations. By contrast the new 2017 report uses travel times and distances to determine the location of firehouses. San Diego has many canyons and radii models are a flawed method to determine fire station placement in urban areas interrupted by canyons. For example a house may be a quarter of a mile across a canyon using radii, but a 3 mile drive from a fire station. Based on the old radii report fire station 50 is located at Nobel and Shoreline. 50's isolated location with a canyon to the south and airport to the east provides little bang for the buck. The new 2017 report came to the March 8th PSLN City Council sub-committee as an information item. The question now is; are we going to use it or fast track station 50 based on the old 2010 radii report?

The attached illustration includes both of the proposed fires stations for our area; UCSD and 50. The city goal is to have a first responder at a house 7 ½ minutes after a 911 call is made. Currently 50 is located 1 ½ miles from 35 so there is considerable overlap. 50's proposed location fails to reach University City in 7 ½ minutes during evening rush hour which is also the peak time for emergency calls (below left illustration). During non-rush hour 50 is barely better than either; 35 in UTC or 27 in Clairemont (illustration below center). You do not need graphics to illustrate that 50 in its current location will not serve UC very well; you only need to have lived in UC. The optimal location for 50 to support both Clairemont and UTC would be in the vicinity of Governor Drive & Genesee Avenue (illustration below right).

Why is 50 not near Governor & Genesee? Well UTC has a substantial FBA budget so it has the 12 million dollars to build fire station 50, UCSD also has the money to build their new fire station; Clairemont and University City do not have the budget. Although the 12 million to build each new station will come from UCSD & UTC the 2.2 million a year operating cost, for each station, comes out of the general city budget which both Clairemont and University City help pay for. That 2.2 million a year adds up to 220 million dollars a century, bringing the total century cost for each station to 232 million dollars. The phrase "City of San Diego" had become a misnomer when it comes to placing emergency assets. What we currently have are Economic Fiefdoms who have the money to build a station that serves them well but not those outside of their community who are also paying for operation. If 50 remains at Nobel and Shoreline then UTC will soon have 3 fire stations. As a consequence during the evening rush, when emergency calls are the greatest, the bulk of our emergency assets will have to fight rush hour traffic to get south from UTC.

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Every consultant, citizen and politician recognizes that north south traffic is the problem, so why are we deploying so many assets in UTC along an east west line?

Building 50 at Nobel and Shoreline is a mistake. However if it is built Citygate is still recommending another new fire station in UC. Why not just build one fire station in the vicinity of Governor and Genesee? Fire stations cost 232 million a century to build and operate. If the city is serious about their budget why not build one optimally placed station instead of two? See lower right illustration. For additional detail go to: One Fire Station or Two, 2016 Ballot Looms, March 2016 Clairemont Times, Page 9.

I believe the fissure that has existed over the Regents Road Bridge is a factor in placing 50 at Nobel and Shoreline, since this forces the new UC fire station, not to be central, but to be in west UC, like the current FRS 56. This is all part of a private Grande Bargain about 8 years ago. The current placement of fire stations came out of unpublished sub-committee meetings between UCPG and, I assume, Citygate and the Fire Department. UCPG does not publish their sub-committee meetings which is a Brown Act violation. The Regents Road Bridge controversy has resulted in banning anyone from East UC from being on the UCPG board and has placed the FRS in West UC, not central to best serve the community. In my opinion this underrepresentation of East UC exasperates the problem. To help resolve it, West, Central and East UC should be separate UCPG areas. UCPG announced, at their last meeting, that they do not like to publish too much detail because it just confuses people. I hope this writing has helped to remove some of that confusion.

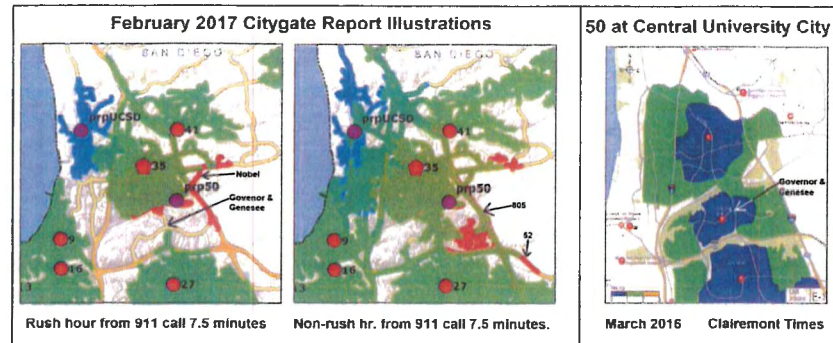
The city is crying budget shortfall, but is the city willing to take an overall look at spending?

Louis Rodolico has been a resident of University City since 2001

website: louisrodolico.com

## Letter E - Response

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## Links:

Minutes with links to all 2017 Citygate Reports:

[http://docs.sandiego.gov/ccagenda\\_psln/psln170308.pdf](http://docs.sandiego.gov/ccagenda_psln/psln170308.pdf)

One Fire Station or Two, 2016 Ballot Looms March 2016 Clairemont Times, Page 9

[https://issuu.com/theclairemonttimes/docs/clairemont\\_times\\_march\\_2016](https://issuu.com/theclairemonttimes/docs/clairemont_times_march_2016)

March 8th PSLN City Council sub-committee, go to minute 30

[http://granicus.sandiego.gov/MediaPlayer.php?view\\_id=52&clip\\_id=6905](http://granicus.sandiego.gov/MediaPlayer.php?view_id=52&clip_id=6905)

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## Letter F



EDMUND G. BROWN JR.  
GOVERNOR May 4, 2017

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE OF PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



KIM ALEX  
DIRECTOR

## Letter F - Response

Thank you for your input on this project. All parties with comments inclusive of this letter will be addressed accordingly.

Chris Tracy  
City of San Diego  
1222 First Avenue MS-50  
San Diego, CA 92101

Subject: K University Fire Station 50 SDP  
SCID#: 2017041015

Dear Chris Tracy:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on May 3, 2017, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency



**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2017041015  
**Project Title** N University Fire Station 50 SDF  
**Lead Agency** San Diego, City of

**Letter F - Response**

**Type** MND Mitigated Negative Declaration  
**Description** Site development permit for the development of a new three story 16,077 sf fire station within ESL. The project site is located in the University Community Plan area within the city of San Diego. The site is west of I-805 and is located adjacent to the southeast corner of Nobel Dr and Shoreline Dr on City owned land.

**Lead Agency Contact**

**Name** Chris Tracy  
**Agency** City of San Diego  
**Phone** (619) 465-5381 **Fax**  
**email**  
**Address** 1222 First Avenue, MS-501  
**City** San Diego **State** CA **Zip** 92101

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**Project Location**

**County** San Diego  
**City** San Diego  
**Region**  
**Lat / Long** 32° 51' 51.8" N / 117° 12' 01.4" W  
**Cross Streets** Noble Dr/Shoreline Dr  
**Parcel No.** 345-011-24-00  
**Township** **Range** **Section** **Base**

**Proximity to:**

**Highways** 805  
**Airports** MCAS Miramar  
**Railways** Amtrak/Coaster  
**Waterways** Rose Creek  
**Schools** Torah HS, U. City HS  
**Land Use** RS-1-14/ RES

**Project Issues** Archaeologic-Historic, Biological Resources, Landuse

**Reviewing Agencies** Resources Agency, Department of Fish and Wildlife, Region 5; Cal Fire: Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics, California Highway Patrol; Caltrans, District 11; Regional Water Quality Control Board, Region 9; Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission; San Diego River Conservancy

**Date Received** 04/04/2017 **Start of Review** 04/04/2017 **End of Review** 05/03/2017

Note: Blanks in data fields result from insufficient information provided by lead agency.

**Letter F - Response**

April 14, 2017

Chris Tracy, AICP, Associate Planner  
City of San Diego  
1222 First Avenue, MS 501  
San Diego, CA 92101

GOVERNOR'S OFFICE OF PLANNING & RESEARCH

APR 18 2017

STATE CLEARINGHOUSE

Sent via e-mail: DSDEAS@sandiego.gov

Re: SCH# 2017041015, N. University Fire Station 50 SDP Project, City of San Diego; San Diego County, California

Dear Mr. Tracy:

The Native American Heritage Commission (NAHC) has reviewed the Mitigated Negative Declaration prepared for the project referenced above. The review included the Project Description, the Specific MMRP Issue Area Conditional Regulations, and the Evaluation of Environmental Impacts prepared by the City of San Diego. We have the following concerns:

- There is no Tribal Cultural Resources section or subsection in the Executive Summary as per California Natural Resources Agency (2016) "Final Text for tribal cultural resources update to Appendix G: Environmental Checklist Form," <http://resources.ca.gov/ceqa/docs/at52/Clean-Input-AB-52-App-G-text-Submitted.pdf>
- Mitigation for inadvertent finds of human remains (MMRP Section IV- Human Remains) is incomplete or inaccurate. Please refer to California Public Resources Code 5097.98 for the process of designating a MLD for human remains determined to be Native American.

The California Environmental Quality Act (CEQA)<sup>1</sup>, specifically Public Resources Code section 21064.1, 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.<sup>2</sup> 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.<sup>3</sup> 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 with the area of project effect (APE).

CEQA was amended in 2014 by Assembly Bill 52. (AB 52).<sup>4</sup> AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015. AB 52 created a separate category for "tribal cultural resources", that now includes "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."<sup>5</sup> Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.<sup>6</sup> Your project may also be subject to Senate Bill 18 (SB 18) (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. Both SB 18 and AB 52 have tribal consultation requirements. Additionally, 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<sup>7</sup> may also apply.

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

Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that reason, we urge you to continue to request Native American Tribal Consultation Lists and Sacred Lands File searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information regarding AB 52 can be found online

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<sup>1</sup> Pub. Resources Code § 21000 et seq.

<sup>2</sup> Pub. Resources Code § 21064.1, Cal. Code Regs., tit. 14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b).

<sup>3</sup> Pub. Resources Code § 21067 (d); Cal. Code Regs., tit. 14, § 15064 subd. (a)(1); CEQA Guidelines § 15064 (a)(1).

<sup>4</sup> Government Code 65352.3.

<sup>5</sup> Pub. Resources Code § 21074.

<sup>6</sup> Pub. Resources Code § 21064.2.

<sup>7</sup> Pub. Resources Code § 21064.3 (a).

<sup>8</sup> 16 U.S.C. 300101, 36 C.F.R. § 800.16(a)(1).

at [http://naahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_GatePAPDF.pdf](http://naahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_GatePAPDF.pdf), entitled "Tribal Consultation Under AB 52: Requirements and Best Practices".

The NAHC recommends lead agencies consult with all 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.

A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

Please contact me at [gayle.totton@naahc.ca.gov](mailto:gayle.totton@naahc.ca.gov) or call (916) 373-3710 if you have any questions.

Sincerely,



Gayle Totton, B.S., M.A., Ph.D.  
Associate Governmental Project Analyst

Attachment

cc: State Clearinghouse

## Letter F - Response

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**Pertinent Statutory Information:**

**Under AB 52:**

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

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

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<sup>9</sup> and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18)."<sup>10</sup>

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.<sup>11</sup>

1. 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.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.<sup>12</sup>

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 sections 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.<sup>13</sup>

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 section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.<sup>14</sup>

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.<sup>15</sup>

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 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 section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.<sup>16</sup>

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 section 21084.3 (b).<sup>17</sup>

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 sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 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.

**Letter F - Response**

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<sup>9</sup> Pub. Resources Code § 21080.3.1, subdts. (d), and (e)

<sup>10</sup> Pub. Resources Code § 21080.3.1 (b)

<sup>11</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>12</sup> Pub. Resources Code § 21080.3.2 (a)

<sup>13</sup> Pub. Resources Code § 21082.3 (c)(1)

<sup>14</sup> Pub. Resources Code § 21082.3 (b)

<sup>15</sup> Pub. Resources Code § 21080.3.2 (b)

<sup>16</sup> Pub. Resources Code § 21082.3 (a)

<sup>17</sup> Pub. Resources Code § 21084.3 (e)

- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21090.3.1(d) and the tribe failed to request consultation within 30 days.<sup>16</sup>  
*This process should be documented in the Tribal Cultural Resources section of your environmental document.*

## Letter F - Response

### Under SB 18:

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of "preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county's jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to local governments and requires them 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. 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](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).
- 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.<sup>19</sup>
- There is no Statutory Time Limit on Tribal Consultation under the law.
- Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research,<sup>20</sup> 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 sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction.<sup>21</sup>
- Conclusion Tribal Consultation: Consultation should be concluded at the point in which:
  - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - 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.<sup>22</sup>

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### NAHC Recommendations for Cultural Resources Assessments:

- Contact the NAHC for:
  - 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.
  - A Native American Tribal Contact 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.
    - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - If part or the entire APE has been previously surveyed for cultural resources
  - If any known cultural resources have been already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- 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.
  - 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
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

<sup>16</sup> Pub. Resources Code § 21090.3 (d)

<sup>17</sup> Gov. Code § 65352.3 (a)(2)

<sup>18</sup> pursuant to Gov. Code section 65030.2

<sup>19</sup> (Gov. Code § 65352.3 (b))

<sup>20</sup> Tribal Consultation Guidelines (Governor's Office of Planning and Research (2009) at p. 18)

**Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**

- Avoidance and preservation of the resources in place, including, but not limited to:
  - Planning and construction to avoid the resources and protect the cultural and natural context.
  - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- 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:
  - Protecting the cultural character and integrity of the resource.
  - Protecting the traditional use of the resource.
  - Protecting the confidentiality of the resource
- 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.
- 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.<sup>23</sup>
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.<sup>24</sup>

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.<sup>25</sup> 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.
- 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.
- 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 section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

**Letter F - Response**

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<sup>23</sup> Gov. Code § 815.3 (c).

<sup>24</sup> (Pub. Resources Code § 5097.901).

<sup>25</sup> per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).



Matthew Rodriguez  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Barbara A. Lee, Director  
5796 Corporate Avenue  
Cypress, California 90630



Edmund G. Brown Jr.  
Governor

### Letter F - Response

April 25, 2017

Governor's Office of Planning & Research

APR 25 2017

STATE CLEARINGHOUSE

Mr. Chris Tracy, AICP  
Associate Environmental Planner  
City of San Diego Development Services Center  
1222 First Avenue, MS 501  
San Diego, California 92101

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INITIAL STUDY AND PROPOSED MITIGATED NEGATIVE DECLARATION (ND) FOR  
N. UNIVERSITY FIRE STATION 50 SDP PROJECT (SCH# 2017041015)

Dear Mr. Tracy:

The Department of Toxic Substances Control (DTSC) has reviewed the subject ND. The following project description is stated in the ND: "SITE DEVELOPMENT PERMIT (CIP-2) for the development of a new three story 16,077 sq. ft. fire Station within ESL (Environmentally Sensitive Lands). The project site is located in the University City Community Plan area within the City of San Diego."

Based on the review of the submitted document DTSC has the following comments:

1. The ND should identify and determine whether current or historic uses at the project site may have resulted in any release of hazardous wastes/substances. A Phase I Environmental Site Assessment may be appropriate to identify any recognized environmental conditions.
2. If there are any recognized environmental conditions in the project area, then proper investigation, sampling and remedial actions overseen by the appropriate regulatory agencies should be conducted prior to the new development or any construction.
3. If the project plans include discharging wastewater to a storm drain, you may be required to obtain an NPDES permit from the overseeing Regional Water Quality Control Board (RWQCB).
4. If planned activities include building modifications/demolitions, lead-based paints or products, mercury, and asbestos containing materials (ACMs) should be addressed in accordance with all applicable and relevant laws and regulations.

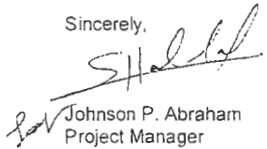
**Letter F - Response**

5. If the site was used for agricultural or related activities, residual pesticides may be present in onsite soil. DTSC recommends investigation and mitigation, as necessary, to address potential impact to human health and environment from residual pesticides.
6. If the project development involves soil export/import, proper evaluation is required. If soil contamination is suspected or observed in the project area, then excavated soil should be sampled prior to export/disposal. If the soil is contaminated, it should be disposed of properly in accordance with all applicable and relevant laws and regulations. In addition, if imported soil was used as backfill onsite and/or backfill soil will be imported, DTSC recommends proper evaluation/sampling is necessary to ensure the backfill material is free of contamination.
7. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the ND should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight.

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If you have any questions regarding this letter, please contact me at (714) 484-5380 or email at [Johnson.Abraham@dtsc.ca.gov](mailto:Johnson.Abraham@dtsc.ca.gov).

Sincerely,



Johnson P. Abraham  
Project Manager  
Brownfields Restoration and School Evaluation Branch  
Brownfields and Environmental Restoration Program - Cypress

kl/sh/ja

cc: See next page.



Mr. Chris Tracy, AICP  
April 25, 2017  
Page 3

**Letter F - Response**

cc: Ms. Lindsay Hashimoto (via e-mail)  
Senior Planner  
Office of Environmental Planning and Sustainability  
University of California, Irvine  
[Lhashimoto@uci.edu](mailto:Lhashimoto@uci.edu)

Governor's Office of Planning and Research (via e-mail)  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044  
[State.clearinghouse@opr.ca.gov](mailto:State.clearinghouse@opr.ca.gov)

Mr. Guenther W. Moskat, Chief (via e-mail)  
Planning and Environmental Analysis Section  
CEQA Tracking Center  
Department of Toxic Substances Control  
[Guenther.Moskat@dtsc.ca.gov](mailto:Guenther.Moskat@dtsc.ca.gov)

Mr. Dave Kereazis (via e-mail)  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)

Mr. Shahir Haddad, Chief (via e-mail)  
Schools Evaluation and Brownfields Cleanup  
Brownfields and Environmental Restoration Program - Cypress  
[Shahir.Haddad@dtsc.ca.gov](mailto:Shahir.Haddad@dtsc.ca.gov)

CEQA# 2017041015

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## LETTER G



### Campo Band of Mission Indians

Chairman Ralph Goff  
Vice-Chairman Harry P. Cuero Jr.  
Secretary Kerm Shipp  
Treasurer Marcus Cuero  
Committee Brian Connolly Sr.  
Committee Steven M. Cuero  
Committee Benjamin Dyche

May 4, 2017

To whom it may concern

Subject: Project Name N. University Fire Station 50 SDP Project No. 463835

After review of N. University Fire Station 50 SDP Project No. 463835, Campo Band of Mission Indians concludes that there is a significant impact on cultural resources with the proposed project. Campo Band of Mission Indians requests a meeting to consult about the proposed project and possible ways to mitigate impact on cultural resources within the project area.

Sincerely,

Ralph Goff

Chairman

Campo Band of Mission Indians

## Letter G - Response: See email below

### Tracy, Christopher

From: Tracy, Christopher on behalf of DSD EAS  
Sent: Tuesday, May 09, 2017 2:33 PM  
To: 'MarcusCuero@campo-nsn.gov'  
Subject: FW: N. University Fire Station 50 Project# 463835  
Attachments: 463835 N University Fire Station 50 SDP - Draft MND.pdf; 463835 N University Fire Station No 50 SDP - Initial Study Draft MND.pdf; Arctec\_North University Fire Station\_020317\_Revised.pdf

Hi Marcus,

It was good speaking with you today. Please refer to Pages 6-12 on the first attachment. I believe it should address your questions on notification.

Sincerely,

**Chris Tracy, AICP**  
Associate Planner  
City of San Diego  
Development Services

T (619)-446-5381  
sandiego.gov

#### CONFIDENTIAL COMMUNICATION

This electronic mail message and any attachments are intended only for the use of the addressee(s) named above and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not an intended recipient, or the employee or agent responsible for delivering this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this e-mail message in error, please immediately notify the sender by replying to this message or by telephone. Thank you.

From: Marcus Cuero (mailto:MarcusCuero@campo-nsn.gov)  
Sent: Thursday, May 04, 2017 11:55 AM  
To: DSD EAS <DSDEAS@sandiego.gov>  
Subject: N. University Fire Station 50 Project# 463835

Here is a letter regarding N. University Fire Station 50 Project# 463835

Marcus Cuero  
Treasurer  
Campo Band of Mission Indians  
36190 Church Road  
Campo, CA 91906  
Phone: (619) 478-9046  
Fax: (619) 478-5818  
[marcuscuero@campo-nsn.gov](mailto:marcuscuero@campo-nsn.gov)



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, CA 92123  
(858) 467-4201  
www.wildlife.ca.gov

## LETTER H

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



May 4, 2017

Chris Tracy, AICP  
Environmental Planner  
City of San Diego Development Services Center  
1222 First Avenue, MS 501  
San Diego, California 92101  
[DSDEAS@sanidiego.gov](mailto:DSDEAS@sanidiego.gov)

**Subject: Comments on the Mitigated Negative Declaration for the North University Fire Station Number 50, City of San Diego, San Diego County, California (Project # 463835, SCH # 2017041015)**

Dear Mr. Tracy:

H1

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced draft Mitigated Negative Declaration (MND) for the North University Fire Station Number 50 (proposed project). The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines § 15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code [FGC] § 2050 et seq.) and FGC section 1600 et seq. The Department also administers the Natural Community Conservation Planning (NCCP) program. The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and through the planning of the City's Draft Vernal Pool Habitat Conservation Plan (Vernal Pool HCP).

H2

The proposed project would construct an approximately 0.94-acre, three-story fire station located within the University Community Plan Area, City of San Diego. The proposed project is located west of Interstate 805 and is adjacent to the southeast corner of Nobel Drive and Shoreline Drive on City-owned land, within preserved Multiple Habitat Planning Area (MHPA). The site contains sensitive biological resources as defined under the City's Environmentally Sensitive Land regulations. The project site is located on an undeveloped area currently served by existing public services and utilities.

The Department offers the following comments and recommendations to assist the City in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources.

H3

Based on our review of the Habitat database, a majority (if not the entirety) of the proposed project (or premise) is located within the City's MHPA and is identified as baseline 100 percent conserved (MHPA Preserve; e.g., Habitat gains); the City Vernal Pool HCP also corroborates this conclusion and identifies the same MHPA designation and conservation level for the larger property, which is documented to contain vernal pools. The Biology Report (Recon 2017) and the MND need to reanalyze the allowable development area for APN 345-011-24-00. Impacts to MHPA Preserve are to be generally avoided; where land uses are considered conditionally compatible with biological objectives of the MSCP Subarea Plan (SAP), the City must account for those impacts and provide mitigation to make the MHPA Preserve whole. Based on our

## Letter H - Response

Thank you for your input on this project.

Please see the following responses concerning your letter dated 5/4/17:

### Response H1

Comment Noted, in terms of the scope of the California Fish and Wildlife Agency's review authority, as it relates to the scope of this project.

### Response H2

Information Noted.

### Response H3

Comment Noted. The February 20, 2017 RECON Biology Report was approved by the City and was referenced in the draft MND. The Biology Report addressed impacts to existing native habitats and a slight encroachment into a previous mitigation area. Page 1 of the Biology Report erroneously concludes that the project would be below the 30 percent threshold as existing development on the large lot was not taken into account. Subsequently, existing encroachment over the large lot was found to be slightly above the allowed 30 percent and a Boundary Line Adjustment (BLA) Process was then initiated. The BLA for the Fire Station 50 project was completed on September 25, 2017. The Final MND has been revised to reflect the new information, however the Biology Report itself was not amended as this final MND and the approved BLA documents the situation and the approval Biology Report accurately addresses biological impacts and mitigation under CEQA.

Figure 1 of the BLA is presented below to show the Fire Station 50 project overlapping MHPA and a narrow encroachment into the previous mitigation area where storm water will be conveyed. This encroachment area will be revegetated with native species following construction.

*Conserving California's Wildlife Since 1870*

**Letter H - Response**  
Response H3 Continued

H3 → review of the supporting documentation, the draft MND appears to mix terminology when referencing impacts to Baseline MHPA—100 percent conserved lands versus MHPA that has yet to be conserved. Regardless of the total acreage of Baseline MHPA, the MND should describe how the City intends to account for impacts to 100 percent conserved lands (i.e., the MHPA Preserve) impacted by the proposed project (e.g., through a Boundary Line Adjustment Process). For areas within the MHPA identified as 100% conserved, there is no available development area unless a boundary line adjustment is proposed and approved by the Department and the U.S. Fish and Wildlife Service (collectively the Wildlife Agencies). The Biological Technical Report (Recon 2017) identifies the proposed project development as being "... far below the 30 percent allowed for essential public facilities. Because total direct impacts are below this 30 percent threshold, an MHPA boundary line adjustment would not be required." (Recon 2017; p. 36). However, the City developed, owns, and operates the Nobel Athletic fields and Recreational Center (Recreation Center) on the same parcel (Assessor's Parcel Number 345-011-24-00) as the mitigation site immediately south (across Nobel Drive) of the Recreation Center. Our review of APN 345-011-24-00 indicates the parcel is approximately 90.77 acres, owned by the City, and bifurcated by Nobel Drive. As a result, Nobel Drive isolates Recreation Center and other development to the north from relatively undisturbed MHPA Preserve to the south (south parcel). Of the 90.77-acre parcel, approximately 28 acres (approximately 31 percent) is already developed (i.e., the Recreation Center). As the Biological Report (Recon 2017; p. 36) identifies in Section 6.4.1 *Compatible Land Uses*, the SAP allows an additional 5 percent encroachment within MHPA (not specifically MHPA Preserve) beyond the typical 25 percent MHPA encroachment for essential public facilities—a total of 30 percent encroachment of MHPA. At approximately 31 percent, the Recreation Center exceeds the allowable development area identified by the City's *Land Development Manual—Biology Guidelines Section B* and the analysis provided in the MND.

H3 → In addition, a review of the Habitat Loss Permit (HLP; DEP 81-12-31) associated with the Eastgate Technology Park development indicates that as a condition of the HLP, 34.7 acres of off-site mitigation was required and "...is located 200 feet away from the identified limits of grading for the proposed Nobel Drive Extension project" (City of San Diego 1996). In addition, Figure 5 (see Attachment A) of the HLP indicates that the proposed project (0.94 acre) may be impacting a mitigation site already exceeding the developable area specified by the SAP. Furthermore, a review of the Vernal Pool Management and Monitoring Plan indicates that the Nobel Drive (X5) preserve site is located "...south of Nobel Drive and west of I-805 in the University Community Planning Area. Fifty-five acres of a 94-acre parcel were preserved as mitigation for the Eastgate Technology Park (EQD #81-21-31)" (City of San Diego 2016), which suggests that the site may be serving as both a mitigation site for the Eastgate Technology Park and the Recreation Center, and was identified by the Vernal Pool HCP "...as necessary to stabilize the population of San Diego fairy shrimp (*Branchinecta sandiegonensis*) by the adopted *Recovery Plan for Vernal Pools of Southern California* (USFWS 1998)."

We request that City MSCP staff provide an analysis of the circumstances and our reviews above so that we can meet together and seek an appropriate path forward for the proposed project.





We appreciate the opportunity to comment on the North University Fire Station Number 50 MND. Questions regarding this letter and further coordination on these issues should be directed to Eric Weiss at (858-467-4289), and [eric.weiss@wildlife.ca.gov](mailto:eric.weiss@wildlife.ca.gov).

Sincerely,



Gail K. Sevens  
Environmental Program Manager

cc: State Clearinghouse, Sacramento  
David Zoutendyk, U.S. Fish and Wildlife Service, Carlsbad

#### References

City of San Diego. March 1997. Multiple Species Conservation Program, City of San Diego Subarea Plan. City of San Diego Community and Economic Development Department.

City of San Diego. September, 2016. Draft City of San Diego Vernal Pool Habitat Conservation Plan. <https://www.sandiego.gov/planning/programs/mscp/vphcp>.

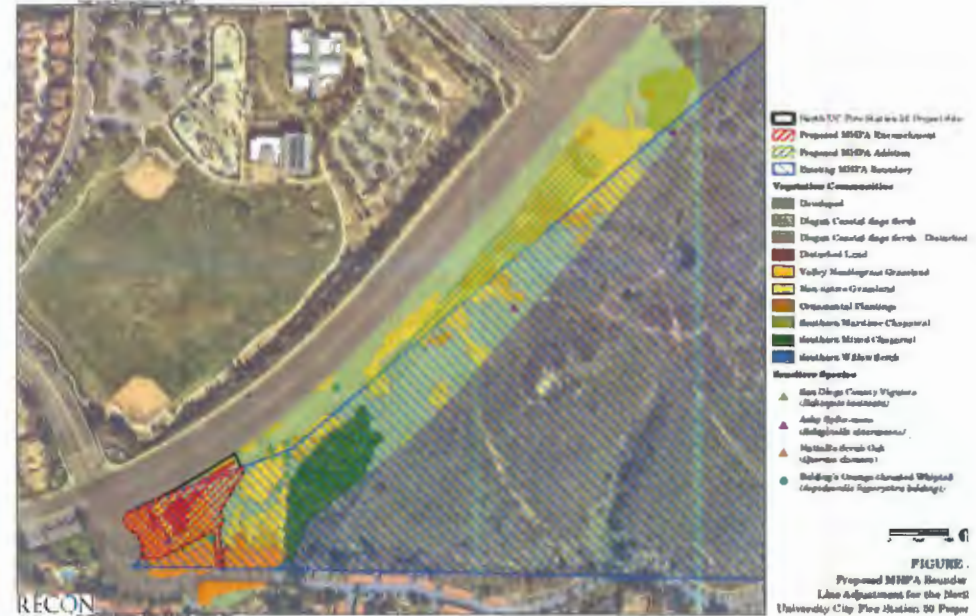
City of San Diego. April 5, 2017. N. University Fire Station No. 50 SDP Mitigated Negative Declaration.

#### Attachment A

#### Letter H - Response Response H3 Continued

The BLA addresses the allowed MHPA encroachment in relation to 30 percent threshold as follows: The following summarizes the proposed impacts and BLA findings:

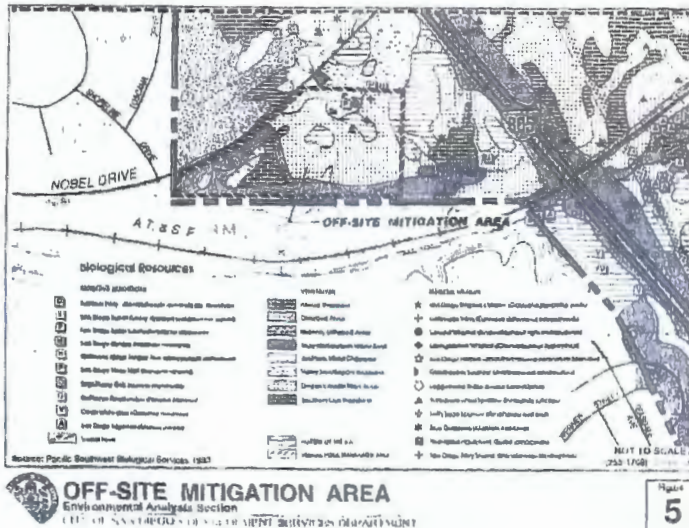
"...Development of the project would result in a 0.816-acre MHPA encroachment. Approximately 0.290 acre of Brush Management Zone 2 would also occur in the MHPA, but this is considered impact-neutral and would not necessitate a further BLA. ... the proposed MHPA BLA will subtract 0.816-acre from the MHPA and add 1.011-acres to the MHPA, for a net increase of 0.197 acre (sum differs due to rounding). The MHPA addition area is a strip of native grassland, Diegan coastal sage scrub, and non-native grassland located east of the fire station project, immediately north of the existing MHPA, south of the Nobel Drive ROW, and west of the Caltrans ROW (BLA Figure 3 below).



Response H3 Continued

The proposed MHPA encroachment (i.e., subtraction) area includes 0.122 acre of Tier I habitat (valley needlegrass grassland), 0.202 acre of Tier II habitat (Diegan coastal sage scrub and disturbed Diegan coastal sage scrub), 0.112 acre of Tier IIIB habitat (non-native grassland), 0.374 acre of Tier IV habitat (disturbed land and ornamental plantings), and 0.005 acre of developed land. The proposed MHPA addition area includes 0.369 acre of Tier I habitat (valley needlegrass grassland), 0.126 acre of Tier II (Diegan coastal sage scrub and disturbed Diegan coastal sage scrub), and 0.517 acre of Tier IIIB habitat (non-native grassland). This would result in an increase of 0.576 acres of Tier I, II, and IIIB habitats and a reduction of 0.379 acre of Tier IV habitats, for a net increase of 0.197 acre. In addition to the acreage exchange described above, the project will restore and revegetate a total of 0.949 acre on the parcel (see BLA Figure 4 below; RECON 2017b). This additional restoration and revegetation includes three general areas:

1. 0.651 acre of native grassland restoration east of the development area and inside the MHPA. Existing non-native grassland will be removed and replaced with a mix of native grassland and coastal sage scrub species. A portion of this restoration (0.367 acre) will be used to mitigate project impacts and the remainder (0.284 acre) will be conducted as part of this BLA to improve habitat value of the MHPA;
2. 0.192 acre of native grassland revegetation south of the development area and inside the MHPA. Non-native grassland, invasive vanilla-scented wattle (*Acacia redolens*), and non-native Mexican fan palm (*Washingtonia robusta*) will be removed and replaced with a mix of native grassland and coastal sage scrub species; and
3. 0.106 acre of native grassland/coastal sage scrub revegetation northeast of the development area, outside the MHPA, within the Nobel Drive ROW. Non-native species within disturbed Diegan coastal sage scrub and non-native grassland will be removed and replaced with a mix of native grassland and coastal sage scrub species. This revegetation does not count toward project mitigation; rather it is intended to improve the habitat quality of the native habitats and adjacent MHPA.
4. As a component of the long-term management/monitoring of the MHPA, as opportunities avail themselves in the near-term the City will explore revegetation/restoration of foot trails that bisect the existing vernal pool complex, and act as appropriate.



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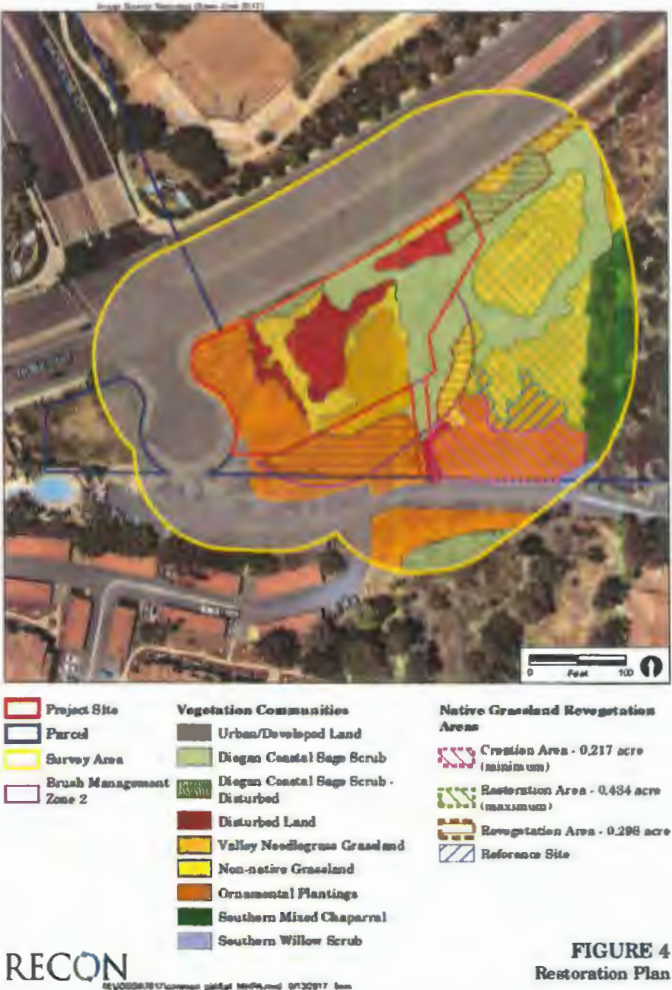


FIGURE 4  
Restoration Plan

## Letter I



EDMUND G. BROWN JR.  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX  
DIRECTOR

May 5, 2017

Chris Tracy  
City of San Diego  
1222 First Avenue, MS-301  
San Diego, CA 92101

Subject: N. University Fire Station 50 SDP  
SCH#: 2017041015

Dear Chris Tracy:

The enclosed comment (s) on your Mitigated Negative Declaration was (were) received by the State Clearinghouse after the end of the state review period, which closed on May 3, 2017. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2017041015) when contacting this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Morgan".

Scott Morgan  
Director, State Clearinghouse

Enclosures

cc: Resources Agency

## Letter I - Response

Thank you for your input on this project. All parties with comments inclusive of this letter will be addressed accordingly.





State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, CA 92123  
(858) 467-4201  
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor  
CHARLTON H. BONHAM, Director



STATE CLEARINGHOUSE

MAY 04 2017

Governor's Office of Planning & Research

Wye  
5/3/17

May 4, 2017

Chris Tracy, AICP  
Environmental Planner  
City of San Diego Development Services Center  
1222 First Avenue, MS 501  
San Diego, California 92101  
DSDEAS@sandiego.gov

**Subject:** Comments on the Mitigated Negative Declaration for the North University Fire Station Number 50, City of San Diego, San Diego County, California (Project # 463835, SCH # 2017041015)

Dear Mr. Tracy:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced draft Mitigated Negative Declaration (MND) for the North University Fire Station Number 50 (proposed project). The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines § 15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code [FGC] § 2050 et seq.) and FGC section 1600 et seq. The Department also administers the Natural Community Conservation Planning (NCCP) program. The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and through the planning of the City's Draft Vernal Pool Habitat Conservation Plan (Vernal Pool HCP).

The proposed project would construct an approximately 0.94-acre, three-story fire station located within the University Community Plan Area, City of San Diego. The proposed project is located west of Interstate 805 and is adjacent to the southeast corner of Nobel Drive and Shoreline Drive on City-owned land, within preserved Multiple Habitat Planning Area (MHPA). The site contains sensitive biological resources as defined under the City's Environmentally Sensitive Land regulations. The project site is located on an undeveloped area currently served by existing public services and utilities.

The Department offers the following comments and recommendations to assist the City in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources.

Based on our review of the Habitatrak database, a majority (if not the entirety) of the proposed project (or premise) is located within the City's MHPA and is identified as baseline 100 percent conserved (MHPA Preserve; e.g., Habitatrak gains); the City Vernal Pool HCP also corroborates this conclusion and identifies the same MHPA designation and conservation level for the larger property, which is documented to contain vernal pools. The Biology Report (Recon 2017) and the MND need to reanalyze the allowable development area for APN 345-011-24-00. Impacts to MHPA Preserve are to be generally avoided; where land uses are considered conditionally compatible with biological objectives of the MSCP Subarea Plan (SAP), the City must account for those impacts and provide mitigation to make the MHPA Preserve whole. Based on our

Letter I - Response

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*Conserving California's Wildlife Since 1870*

Letter I - Response

review of the supporting documentation, the draft MND appears to mix terminology when referencing impacts to Baseline MHPA—100 percent conserved lands versus MHPA that has yet to be conserved. Regardless of the total acreage of Baseline MHPA, the MND should describe how the City intends to account for impacts to 100 percent conserved lands (i.e., the MHPA Preserve) impacted by the proposed project (e.g., through a Boundary Line Adjustment Process). For areas within the MHPA identified as 100% conserved, there is no available development area unless a boundary line adjustment is proposed and approved by the Department and the U.S. Fish and Wildlife Service (collectively the Wildlife Agencies). The Biological Technical Report (Recon 2017) identifies the proposed project development as being "... far below the 30 percent allowed for essential public facilities. Because total direct impacts are below this 30 percent threshold, an MHPA boundary line adjustment would not be required." (Recon 2017; p. 36). However, the City developed, owns, and operates the Nobel Athletic fields and Recreational Center (Recreation Center) on the same parcel (Assessor's Parcel Number 345-011-24-00) as the mitigation site immediately south (across Nobel Drive) of the Recreation Center. Our review of APN 345-011-24-00 indicates the parcel is approximately 90.77 acres, owned by the City, and bifurcated by Nobel Drive. As a result, Nobel Drive isolates Recreation Center and other development to the north from relatively undisturbed MHPA Preserve to the south (south parcel). Of the 90.77-acre parcel, approximately 28 acres (approximately 31 percent) is already developed (i.e., the Recreation Center). As the Biological Report (Recon 2017; p. 36) identifies in Section 6.4.1 *Compatible Land Uses*, the SAP allows an additional 5 percent encroachment within MHPA (not specifically MHPA Preserve) beyond the typical 25 percent MHPA encroachment for essential public facilities—a total of 30 percent encroachment of MHPA. At approximately 31 percent, the Recreation Center exceeds the allowable development area identified by the City's *Land Development Manual—Biology Guidelines Section B* and the analysis provided in the MND.

In addition, a review of the Habitat Loss Permit (HLP; DEP 81-12-31) associated with the Eastgate Technology Park development indicates that as a condition of the HLP, 34.7 acres of off-site mitigation was required and "...is located 200 feet away from the identified limits of grading for the proposed Nobel Drive Extension project" (City of San Diego 1996). In addition, Figure 5 (see Attachment A) of the HLP indicates that the proposed project (0.94 acre) may be impacting a mitigation site already exceeding the developable area specified by the SAP. Furthermore, a review of the Vernal Pool Management and Monitoring Plan indicates that the Nobel Drive (X5) preserve site is located "...south of Nobel Drive and west of I-805 in the University Community Planning Area. Fifty-five acres of a 94-acre parcel were preserved as mitigation for the Eastgate Technology Park (EQD #81-21-31)" (City of San Diego 2016), which suggests that the site may be serving as both a mitigation site for the Eastgate Technology Park and the Recreation Center, and was identified by the Vernal Pool HCP "...as necessary to stabilize the population of San Diego fairy shrimp (*Branchinecta sandiegonensis*) by the adopted *Recovery Plan for Vernal Pools of Southern California* (USFWS 1998)."

We request that City MSCP staff provide an analysis of the circumstances and our reviews above so that we can meet together and seek an appropriate path forward for the proposed project.

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Chris Tracy, AICP  
City of San Diego Development Services Center  
May 4, 2017  
Page 3 of 4

**Letter I - Response**

We appreciate the opportunity to comment on the North University Fire Station Number 50 MND. Questions regarding this letter and further coordination on these issues should be directed to Eric Weiss at (858-467-4289), and [eric.weiss@wildlife.ca.gov](mailto:eric.weiss@wildlife.ca.gov).

Sincerely,



Gail K. Sevens  
Environmental Program Manager

cc: State Clearinghouse, Sacramento  
David Zoutendyk, U.S. Fish and Wildlife Service, Carlsbad

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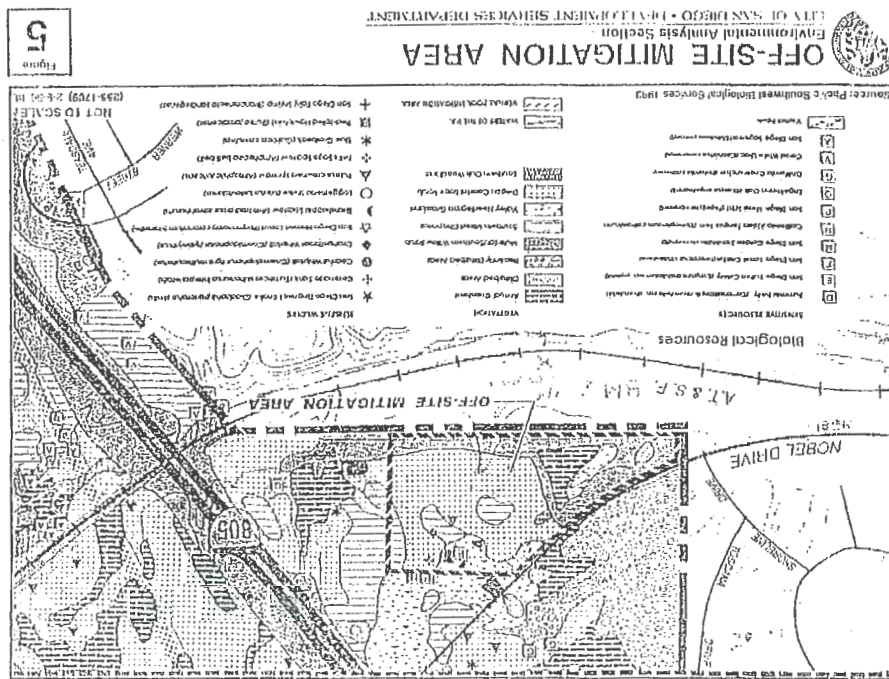
**References**

City of San Diego. March 1997. Multiple Species Conservation Program, City of San Diego Subarea Plan. City of San Diego Community and Economic Development Department.

City of San Diego. September, 2016. Draft City of San Diego Vernal Pool Habitat Conservation Plan. <https://www.sandiego.gov/planning/programs/mscp/vphcp>.

City of San Diego. April 5, 2017. N. University Fire Station No. 50 SDP Mitigated Negative Declaration.

**Attachment A**



## Letter J



### United States Department of the Interior

#### FISH AND WILDLIFE SERVICE

Ecological Services  
Carlsbad Fish and Wildlife Office  
2177 Salk Ave, Suite 250  
Carlsbad, California 92008



In Reply Refer To:  
FWS-SDG-17B0343-17TA0839

May 12, 2017  
*Sent by Email*

Mr. Chris Tracy  
AICP Environmental Planner  
City of San Diego  
1222 First Avenue, MS 501  
San Diego, California 92101  
[DSDEAS@san-diego.gov](mailto:DSDEAS@san-diego.gov)

Subject: North University City Fire Station 50 Project Draft Mitigated Negative Declaration, San Diego County, California

Dear Mr. Tracy:

J1 The U.S. Fish and Wildlife Service (Service), has reviewed the draft Mitigated Negative Declaration (DMND) for the proposed North University City Fire Station 50 Project (project), dated April 5, 2017. The Service appreciates the extension of the DMND comment period to May 12, 2017, granted by the City of San Diego (City). The comments provided herein are based on the information provided in the DMND, the Service's knowledge of sensitive and declining species and their habitats, and our participation in the Multiple Species Conservation Program (MSCP) and the City's MSCP Subarea Plan (SAP). We concur with the California Department of Fish and Wildlife's May 4, 2017, letter regarding the project.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) including habitat conservation plans (HCP) developed under section 10(a)(1) of the Act. The City participates in the Service's HCP program by implementing its SAP.

The 0.94-acre project site lies in the western corner of a 92-acre City owned parcel (APN 345-011-24-00), at the corner of Nobel Drive and Shoreline Drive within the University City community. The City owned parcel is bounded by Interstate 805 on the east, Shoreline Drive on the west, a railroad line on the south and La Jolla Village Drive to the north. Nobel Drive bisects the parcel. Areas north of Nobel Drive are developed with the City's Nobel Athletic Fields and Recreation Center. Areas south of Nobel Drive are undeveloped and lie almost entirely within the Multiple Habitat Planning Area (MHPA), or preserve established by the City's SAP, and were previously preserved in 1996 as a mitigation site for the Eastgate Technology Park.

## Letter J - Response

Thank you for your input on this project.

Please see the following responses concerning your letter dated 5/12/17:

### Response J1

Comments Noted

J2

The project involves the construction and operation of a: three-story, 12,000-square foot fire station; 14-space parking lot; storage area for a fuel tank, generator, and transformer; and trash enclosure. Three 75-foot-wide flow-through planters will be provided in the southern portion of the site to treat and detain all storm water runoff on-site. The project will also add an entry/exit point to the cul-de-sac on east side of Shoreline Drive and an exit point on Nobel Drive. Native landscaping will be provided throughout the project site. The project will impact a total of 0.94 acre; including 0.12 acre of native grassland, 0.24 acre of coastal sage scrub, 0.14 acre of non-native grassland, 0.2 acre of disturbed and 0.24 acre of developed/ornamental; as well as 0.79 acre of MHPA and 0.02 acre of the Eastgate Technology Park mitigation site.

For parcels wholly within the MHPA, the SAP and City's Bio-guidelines allow up to 30 percent impact to the MHPA for projects that include essential infrastructure. For parcels that straddle the MHPA where the allowable development area is greater than 30 percent, projects may develop everything outside of the MHPA but not further encroach into the MHPA. The DMND states that project impacts will be below the 30 percent impact allowance and that a boundary line adjustment would not be required.


J3

However, based on our review of the Habitak database, approximately 48.46 acres (52.6 percent) of the 92-acre project parcel is within the MHPA, thereby leaving 43.54 acres (47 percent) of the parcel available for development including a small portion of undeveloped land adjacent to Nobel Drive, the existing Nobel Athletic Fields and Recreation Center and Nobel Drive. Therefore, additional impacts to the MHPA would not be allowed for the project without a boundary line adjustment. In addition, the project should be redesigned to avoid the Eastgate Mall mitigation site, and any avoidable impacts should be mitigated at a minimum 5:1 ratio.

J4

The Service appreciates the opportunity to comment on the DMND and if there are further questions we request a meeting with you and DFW to discuss ways to move forward. Please contact Patrick Gower at 760-431-9440, extension 352, to schedule the meeting or if you have any questions regarding this letter.

Sincerely,



Digitally signed by DAVID  
ZOUTENDYK  
Date: 2017.05.12 07:01:57 -0700

for Karen A. Goebel  
Assistant Field Supervisor

## Letter J – Response

### Response J2

Comments Noted

### Response J3

The Multi-Habitat Planning Area Boundary Line Adjustment (BLA) Equivalency Analysis for the North University City Fire Station 50 Project by RECON Environmental, dated September 25, 2017 (Final Amended by City of San Diego, MSCP, Planning) was prepared in consultation with the US Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife, for the proposed project. The Equivalency Analysis concludes that the proposed MHPA Preserve land exchange, that will be required as part of the Fire Station 50 development, would have an overall beneficial effect on the MHPA preserve and comply with the overall MSCP policy for BLAs because the proposed BLA would result in equal or higher biological values of the preserve to species and habitats.

### Response J4

Comments Noted