

Appendix A
Notice of Preparation Comments



Yana Garcia
Secretary for
Environmental Protection



Department of Toxic Substances Control

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



Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

March 22, 2024

Tina Garg
Supervising Planner
City of San Jose
200 E Santa Clara Street
San Jose, CA 95113
tina.garg@sanjoseca.gov

RE: NOTICE OF PREPARATION (NOP) OF A DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE FIVE WOUNDS URBAN VILLAGE PLAN UPDATE DATED MARCH 11, 2024 STATE CLEARINGHOUSE #[2024030360](#)

Dear Tina Garg,

The Department of Toxic Substances Control (DTSC) received a NOP of a DEIR for the Five Wounds Urban Village Plan Update (project). The project would create a new "Five Wounds Urban Village" Plan (plan) that would govern land use and transportation development in the area through 2040. The new plan would incorporate the existing urban villages located in the project area (Five Wounds Urban Village, Roosevelt Park Urban Village, Little Portugal Urban Village, and the 24th and William Urban Village) into a single plan that reflects the anticipated development potential of the area following construction. The stand-alone Roosevelt Park Urban Village, Little Portugal Urban Village, and the 24th and William Urban Village Plans will be retired. The project would modify the planned job and housing capacities of the project area from approximately 4,855 jobs and 2,022 housing units to 2,500 jobs and 8,022 housing units. The decrease in job capacity and increase in housing capacity would result in a

net zero change in capacity under the Envision San José 2040 General Plan (General Plan), with jobs and housing units being distributed to and from, respectively, other urban villages throughout San José. Based on our project review; we request consideration of the following comments:

1. The proposed Project encompasses multiple active and nonactive mitigation and clean-up sites where DTSC has conducted oversight that may be impacted as a result of this Project. This may restrict what construction activities are permissible in the proposed Project areas in order to avoid any impacts to human health and the environment.
2. Due to the broad scope of the Project, DTSC is unable to determine the locations of the proposed sites, whether they are listed as having documented contamination, land use restrictions, or whether there is the potential for the sites to be included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Therefore, DTSC recommends providing further information on the proposed project and areas that may fall under DTSC's oversight within future environmental documents. Once received, DTSC may provide additional comments on the future environmental documents as further information becomes available. Please review the project area in [EnviroStor](#); DTSC's public-facing database.

DTSC believes the City of San Jose must address these comments to determine if any significant impacts under the California Environmental Quality Act (CEQA) will occur and, if necessary, avoid significant impacts under CEQA. DTSC recommends the department connect with our unit if any hazardous waste projects managed or overseen by DTSC are discovered. Please refer to the [City of San Jose EnviroStor Map](#) for additional information about the areas of potential contamination

DTSC appreciates the opportunity to comment on the NOP of a DEIR for the Five Wounds Urban Village Plan Update. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic

substances. If you have any questions or would like any clarification on DTSC's comments, please respond to this letter or via [email](#) for additional guidance.

Sincerely,

Tamara Purvis

Tamara Purvis
Associate Environmental Planner
HWMP - Permitting Division – CEQA Unit
Department of Toxic Substances Control
Tamara.Purvis@dtsc.ca.gov

cc: (via email)

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

Dave Kereazis
Associate Environmental Planner
HWMP – Permitting Division - CEQA Unit
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

Scott Wiley
Associate Governmental Program Analyst
HWMP – Permitting Division - CEQA Unit
Department of Toxic Substances Control
Scott.Wiley@dtsc.ca.gov

***The Amah Mutsun Tribal Band of San Juan Bautista
&
A.M.T.B. Inc.***

Letter of Response

To whom it may concern:

It is our pride and privilege to be of service for any **Native American Cultural Resource Monitoring, Consulting and/ or Sensitivity Training you may need or require.** We take our Heritage and History seriously and are diligent about preserving as much of it as we can. Construction is a constant in the Bay Area and with that new discoveries are bound to happen. If you choose our services, we will gladly guide all personnel through proper procedures to safely protect and preserve: Culture, Heritage, and History.

It is highly recommended, if not previously done, to search through Sacred Lands Files (SLF) and California Historical Resource Information Systems (CHRIS) as well as reaching out to the Native American Heritage Commission (NAHC) In order to determine whether you are working in a Cultural and/ or Historic sensitivity.

If you have received any positive cultural or historic sensitivity within 1 mile of the project area here are A.M.T.B Inc's and Amah Mutsun Tribal Band of San Juan Bautista's recommendations:

- All Crews, Individuals and Personnel who will be moving any earth be Cultural Sensitivity Trained.
- A Qualified California Trained Archaeological Monitor is present during any earth movement.
- A Qualified Native American Monitor is present during any earth movement.

If further Consultation, Monitoring or Sensitivity Training is needed please feel free to contact A.M.T.B. Inc. or Myself Directly. A.M.T.B. Inc. 650 851 7747

Irenne Zwiierlein

Irenne Zwiierlein



**3030 Soda Bay Road, Lakeport
CA 95453
amtbtinc21@gmail.com
(650)851-7447**

***Amah Mutsun Tribal Band of San Juan Bautista
&
AMTB Inc.***

3030 Soda Bay Road Lakeport, CA 95453

Our rates for 2024 are

\$275.00 per hour.

4 hours minimum

Cancellations not 48 hours (about 2 days) prior will be charged as a 4-hour minimum. There is a round trip mileage charge if canceled after they have traveled to site.

Anything over 8 hours a day is charged as time and a half.

Weekends are charged at time and a half.

Holidays are charged at double the time.

For fiscal year (FY) 2024, standard per diem rate of \$412. (\$333. lodging, \$79 M&IE).

M&IE Breakdown FY 2023

M&IE Total¹	Continental Breakfast/ Breakfast²	Lunch²	Dinner²	Incidental Expenses	First & Last Day of Travel³
\$79.00	\$18.00	\$20.00	\$36.00	\$5.00	\$59.25

Beginning 2024, the standard mileage rates for the use of a car round trip (also vans, pickups or panel trucks) will be: \$.67 cents per mile driven for business use or what the current federal standard is at the time.

Our Payment terms are 5 days from date on invoice.

Our Monitors are Members of the Amah Mutsun Tribal Band of Mission San Juan Bautista.

If you have any questions, please feel free to contact the A.M.T.B. Inc. at the below contact information.

Sincerely,

Irenne Zwierlein

Irenne Zwierlein

3030 Soda Bay Rd, Lakeport
CA 95453
amtbinc21@gmail.com
(650)851-7747



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/29/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Allied Brokers 591 Lytton Avenue Palo Alto CA 94301	CONTACT NAME: PHONE (A/C, No, Ext): (650) 328-1000 FAX (A/C, No): (650) 324-1142 E-MAIL: BusinessVIP@alliedbrokers.com ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: Scottsdale Insurance Company INSURER B: United States Liability Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:
INSURED Amah Mutsun Tribal Band Consulting & Monitoring, LLC 330 Soda Bay Rd Lakeport CA 95453	NAIC # 41297 25895

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC OTHER:			CPS7829150	07/09/2023	07/09/2024	EACH OCCURRENCE \$ 1,000,000
			DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000				
			MED EXP (Any one person) \$ 5,000				
			PERSONAL & ADV INJURY \$ 1,000,000				
						GENERAL AGGREGATE \$ 2,000,000	
						PRODUCTS - COMP/OP AGG \$ 1,000,000	
							\$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$						EACH OCCURRENCE \$
							AGGREGATE \$
							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE OTHER
							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
B	Professional Liability			SP1573468C	06/21/2023	06/21/2024	Each Claim \$1,000,000 Aggregate \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Proof of Coverage

CERTIFICATE HOLDER**CANCELLATION**

FOR YOUR INFORMATION

SHOULD ANY OF THE ABOVE-DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mimi Watson

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From: [Kevin Thai](#)
To: [Garg, Tina](#)
Cc: [Yvonne Arroyo](#); [Colleen Haggerty](#); [Vanessa De La Piedra](#); [Michael Martin](#); [Jason Gurdak](#); [Geoffrey Tick](#); [Madhu Thummaluru](#); [Benjamin Hwang](#)
Subject: Notice of Preparation of an Environmental Impact Report for the Five Wounds Urban Village Plan Update (ER21-298)
Date: Tuesday, April 9, 2024 5:24:33 AM
Attachments: [image001.png](#)

[External Email]

You don't often get email from kthai@valleywater.org. [Learn why this is important](#)

Dear Tina Garg:

The Santa Clara Valley Water District (Valley Water) has reviewed the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Five Wounds Urban Village Plan Update, received on March 8, 2024. Valley Water has the following comments for your consideration in preparation of the DEIR.

The project area is partially bounded by Lower Silver Creek and Coyote Creek. Valley Water has completed flood project improvements along Lower Silver Creek within / adjacent to the project area and has right of way along Lower Silver Creek. Valley Water has right of way along portions of Coyote Creek within / adjacent to the project area and is designing and constructing flood protection improvements. In accordance with Valley Water's Water Resources Protection Ordinance, any work within Valley Water right of way (fee and easement) requires issuance of a Valley Water permit, which is a discretionary act under CEQA. The DEIR should note that Valley Water is a responsible agency under CEQA if the project may include any work on Valley Water's easement and fee title property along Lower Silver Creek or Coyote Creek.

1. One of the primary objectives identified under Section 3, Project Overview listed on Page 5 is to *"Facilitate planning for the Five Wounds Trail alignment and design character on or adjacent to the former Union Pacific Railroad corridor to provide a park trail, green space, an alternative circulation route for bicyclists and pedestrians, and other public health benefits."* Valley Water and the City of San Jose (City) regularly coordinate regarding existing and proposed City trails / recreational facilities located within Valley Water lands, which include trail reaches along Coyote Creek, both north and south of the project area. The DEIR needs to note any planned trails / recreational facilities within Valley Water lands needs to conform to Valley Water's 2021 Trails Policy Criteria and Guidance (Trails Policy), including execution of a Joint Trails Agreement, and are subject to Valley Water's encroachment permit process.

The City's planned trail alignment near the former railroad corridor may impact Valley Water's Lower Silver Creek flood protection improvements, which have been designed to convey the 1% annual chance flood event. In accordance with Valley Water's Trails Policy, recreational improvements must not diminish the capacity of Valley Water's flood protection improvements. The DEIR should identify the existing flood risks along Lower Silver Creek (as well as Coyote Creek, if applicable) and

acknowledge that a flood risk analysis will need to be completed for any trail / recreational improvements impacting Valley Water's facilities, and more generally, FEMA's Special Flood Hazard Area.

2. Portions of the project are located within FEMA's Special Flood Hazard Area, including Zones A, AH, AO, and AE. The Hydrology and Water Quality section of the DEIR should include a discussion of existing flood hazards. All development should adhere to the City of San Jose's Floodplain Ordinance and at a minimum, the National Flood Insurance Program (NFIP) requirements. A flood risk analysis, evaluating pre- and post-project conditions, should be completed to ensure flooding will not be adversely impacted – both in terms of depth and lateral extent.
3. The Hydrology and Water Quality section should note both existing and planned Valley Water flood protection improvements within the project area. Lower Silver Creek within / adjacent to the project area have been improved to convey the 1% annual chance flood event. Along Coyote Creek, Valley Water is designing and constructing improvements to reduce flood risk and provide protection from a flood event similar in magnitude to the 2017 flood event. Any impact(s) to existing or planned Valley Water flood protection improvements need to be identified in the DEIR, along with appropriate mitigation measures to ensure future development will not diminish the level of protection provided by these improvements.
4. Since the proposal includes more than 500 residential units, the water retailer is required to prepare a Water Supply Assessment to evaluate water supply availability. When considering water supply and San Jose Water Company's Urban Water Management Plan, it is important to recognize that future projections of future water supply and availability assume substantial increases in water conservation and demand management measures. For future projects to meet their fair share of these water conservation assumptions, Valley Water suggests that all available water conservation measures be required. To reduce or avoid adverse impacts to water supply, the City should consider the following:
 - Weather- or soil-based irrigation controllers;
 - Dedicated landscape meters;
 - Maximize the use of alternative water sources for non-potable uses including stormwater, rainwater, and graywater;
 - Installation of separate submeters to each residential unit and individual spaces within commercial buildings to encourage efficient water use.In addition, Valley Water Ordinance 23-02 (Enforcement Measures for Water Conservation in Santa Clara County) prohibits the use of potable water for non-functional turf in private open space. Non-functional turf is defined as turf that is solely ornamental and does not serve a community or neighborhood function.
5. Groundwater in the project area is typically shallow and any future underground development or structures would likely require dewatering. Specific projects with underground development should be required to evaluate potential impacts to shallow groundwater quality and quantity, with measures to minimize the need for dewatering incorporated into the design to the greatest extent possible. Underground structures should be designed for waterproofing that avoids the need for permanent dewatering after construction is complete.
6. Unused or abandoned wells on the project site must be properly destroyed in accordance with Valley Water Ordinance 90-1 and under Valley Water permit. Valley Water's Well Information App can be used to help locate wells on the Project site:

<https://www.valleywater.org/contractors/doing-business-with-the-district/wells-well-owners/well-information-app>. However, there could be unknown abandoned wells not reflected on the Well Information App that are discovered during construction. If such wells are encountered, coordination with Valley Water's Wells and Water Measurement Unit is required.

Please forward a copy of the DEIR to Valley Water when available for public comment. If you have any questions, please contact me at (408) 630-3157 or kthai@valleywater.org.

Sincerely,

KEVIN THAI

ASSOCIATE ENGINEER - CIVIL
Community Projects Review Unit
Tel. (408) 630-3157 / CPRU Hotline: (408) 630-2650

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

5750 Almaden Expressway, San Jose CA 95118
www.valleywater.org

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