

RECEIVED

JUN 14 2004

PHYSICAL & ENVIRONMENTAL
PLANNING

June 9, 2004

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

Re: LRDP High Density housing development at Grizzly Peak and Centennial Dr.

Dear Ms. Lawrence:

I oppose construction of the 100-unit housing development proposed for the intersection of Grizzly Peak and Centennial. The impact of 100-200 additional cars associated with these proposed residences going up and down our hill streets is unacceptable in this single family residential district. The parking difficulties and increased traffic will be intolerable.

C166-1

This type of congestion on our narrow, winding hill streets is unsafe in emergencies, especially in this fire-prone area. Access for fire-fighting equipment and routes for residents to flee are essential.

C166-2

There are only two main routes to reach the Grizzly Peak/Centennial location from the campus—up La Loma, Glendale, Del Mar, Campus Dr., and Avenida to Grizzly Peak, or the route behind the stadium to the Radiation Lab, Lawrence Hall of Science, Space Sciences and Math Institute. Neither of these routes can handle the increase in traffic load, noise, and pollution.

Additional traffic cannot be accommodated! Keep the construction of high-density units, condos and townhouses lower and closer to town and the campus.

Sincerely,



Marjorie Jencks
1404 Campus Dr.
Berkeley, CA 94708

11.2C.166 RESPONSE TO COMMENT LETTER C166

RESPONSE TO COMMENTS C166-1 AND C166-2

See Thematic Response 8 for a comprehensive response to comments on Hill Campus development. Due partly to comments received and partly to its uncertain near-term feasibility, faculty housing has been deleted as a potential future Hill Campus use in the 2020 LRDP. As noted in Thematic Response 8, the site formerly designated H1 has been redesignated as a reserve site, while former site H2 has been redesignated as part of the surrounding research zone.

June 6, 2004

LETTER C167

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PHYSICAL & ENVIRONMENTAL
PLANNING

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

RE: Comments on UC Berkeley's 2020 Long Range Development Plan (LRDP) Draft Environmental Impact Report

Dear Ms. Lawrence:

As a resident of the Berkeley Hills I am writing you today to express my opposition to the 100-unit high-density housing development proposed in the UC 2020 LRDP. The contiguous area to this development is zoned for very low-density housing, and for good reason. This is a single-family residential district. Because we live in one of the most high-risk fire zones in the United States, it is essential that we maintain adequate egress from our neighborhood, as well as access for emergency vehicles. Already, we have seen an intolerable increase in parking problems, and traffic congestion near the Grizzly Peak Boulevard, Centennial Drive area due to growth from the UC Space Sciences lab. The addition of 100 high-density housing units, along with the automobile traffic they will create is simply not acceptable.

It is also critical that we stop further destruction of the upper Strawberry Creek Watershed. Construction of impermeable surfaces, such as buildings and parking lots, will increase run-off and will detrimentally impact the City of Berkeley's aging infrastructure. Sections of the proposed development site sits on an aquifer (underground lake) that, in times of emergency, such as a break on the EBMUD water line at the Caldecott Tunnel, could provide potable water for the entire city of Berkeley. Additionally, this site sits next to the Lawrence Hall of Science Fault Zone, between the Hayward/Wildcat Canyon fault lines - hardly a logical place for housing. Finally, further destruction of one of the few remaining open spaces in Berkeley is intolerable.

The City of Berkeley is experiencing an historical residential housing vacancy rate. There is also a great deal of construction of condominiums and townhouses in progress, all of which are within walking distance to campus. It makes much more sense to utilize available housing within the stated objectives of the LRDP ("within one mile from campus") than to begin an environmentally unsound and costly project that will only have negative impacts on the city infrastructure and potentially put people's lives at risk during a fire or other emergency.

In view of the above, please explain how you are planning to mitigate all the health and safety hazards created for the neighborhood including inadequate egress in the case of fire and/or earthquake, increased traffic, noise, pollution, lack of infrastructure, and lack of parking, which will ensue due to the increase in population from the proposed high-density housing project.

Yours truly,

M. Heintz
1 HARVARD Cir.
Berkeley 94708

*Already our narrow streets are ~~gto~~
clogged with cars parked there daily
by university faculty & staff.*

LETTER C168

June 6, 2004

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

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Yours truly,

Stacy A. Donn

LETTER C169

June 6, 2004

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

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Yours truly,

Robert K. Adamson, M.D.
Stacy M. Adamson

LETTER C170

June 6, 2004

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

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PHYSICAL & ENVIRONMENTAL
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RE: Comments on UC Berkeley's 2020 Long Range Development Plan (LRDP) Draft
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Dear Ms. Lawrence:

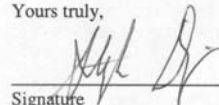
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Yours truly,



Signature

1484 OLYMPUS AVE BERKELEY
94708

Address

LETTER C171

June 6, 2004

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

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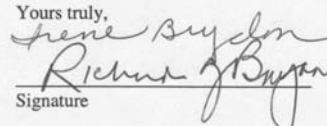
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Yours truly,



Signature

1484 Summit Rd
1484 Summit Rd 94708

Address

Back
74708

11.2C.167-171 RESPONSE TO COMMENT LETTERS C167 THRU C171

The University received 138 form letters signed by individuals, objecting to the proposal for up to 100 faculty housing units in the Hill Campus: C111-C121, C125-C159, C161-C165, C167-C171, C173-C179, C182-C183, C194-C216, C219-C239, C241-C250, C257, C259, C263-C264, C267, C278-C279, C282-C283, C285-C293, and C300. A few of these letters, such as C111, include brief postscript comments, primarily objecting to the number of current UC employees whom the writers assert are parking on city streets to avoid paying UC parking fees.

RESPONSE TO COMMENT LETTERS C167 THRU C171

See Thematic Response 8 for a comprehensive response to comments on Hill Campus development. Due partly to comments received and partly to its uncertain near-term feasibility, faculty housing has been deleted as a potential future Hill Campus use in the 2020 LRDP. As noted in Thematic Response 8, the site formerly designated H1 has been redesignated as a reserve site, while former site H2 has been redesignated as part of the surrounding research zone.

46 Senior Avenue
Berkeley, CA 94708
June 10, 2004

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PHYSICAL & ENVIRONMENTAL
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Ms. Jennifer Lawrence
Facilities Services
University of California, Berkeley
1936 University Avenue, Suite #300
Berkeley, CA 94720-1380

Dear Ms. Lawrence:

As a Cal alum, I am appalled at the University's efforts to foist high density housing on those of us who live in the Berkeley hills. We are already being heavily impacted by the presence of the UC Space Sciences Lab and the Mathematical Sciences Research Lab. On week days we can rarely park in front of our own homes.

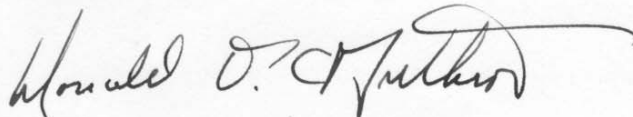
C172-1

Furthermore, in an era when the University claims it does not have enough money to fund incoming freshmen, how does the University justify funding 2, 3, and 5-bedroom housing units?

C172-2

Don't send me any more appeals from the Engineering School for contributions. This university has seen the last contribution from me.

Sincerely,



Donald F. Anthrop
Professor

Cc: Berkeley City Council

11.2C.172 RESPONSE TO COMMENT LETTER C172

RESPONSE TO COMMENT C172-1

See Thematic Response 8 for a comprehensive response to comments on Hill Campus development. Due partly to comments received and partly to its uncertain near-term feasibility, faculty housing has been deleted as a potential future Hill Campus use in the 2020 LRDP.

RESPONSE TO COMMENT C172-2

Because the state provides no funds for University housing, the entire cost of housing construction, operation, and maintenance must be supported by rent revenues.

June 6, 2004

LETTER C173

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

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Yours truly,

Henrietta Lanier - Green
J. Langley J. L.

LETTER C174

June 6, 2004

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

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Yours truly,



LETTER C175

June 6, 2004

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

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Yours truly,

Tan Arion
1501 Olympians Ave
Berkeley, CA 94709

LETTER C176

June 6, 2004

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

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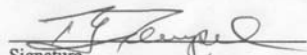

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Yours truly,


Signature


1496 Olympus Avenue
Address
Berkeley, CA 94708

LETTER C177

June 6, 2004

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University of California, Berkeley
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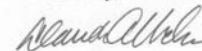
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Yours truly,



Claudia WELLS
38 Senior Avenue
Berkeley, CA 94708

LETTER C178

June 6, 2004

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University of California, Berkeley
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Berkeley, CA 94720-1380

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RE: Comments on UC Berkeley's 2020 Long Range Development Plan (LRDP) Draft Environmental Impact Report

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As a resident of the Berkeley Hills I am writing you today to express my opposition to the 100-unit high-density housing development proposed in the UC 2020 LRDP. The contiguous area to this development is zoned for very low-density housing, and for good reason. This is a single-family residential district. Because we live in one of the most high-risk fire zones in the United States, it is essential that we maintain adequate egress from our neighborhood, as well as access for emergency vehicles. Already, we have seen an intolerable increase in parking problems, and traffic congestion near the Grizzly Peak Boulevard, Centennial Drive area due to growth from the UC Space Sciences lab. The addition of 100 high-density housing units, along with the automobile traffic they will create is simply not acceptable.

It is also critical that we stop further destruction of the upper Strawberry Creek Watershed. Construction of impermeable surfaces, such as buildings and parking lots, will increase run-off and will detrimentally impact the City of Berkeley's aging infrastructure. Sections of the proposed development site sits on an aquifer (underground lake) that, in times of emergency, such as a break on the EBMUD water line at the Caldecott Tunnel, could provide potable water for the entire city of Berkeley. Additionally, this site sits next to the Lawrence Hall of Science Fault Zone, between the Hayward/Wildcat Canyon fault lines - hardly a logical place for housing. Finally, further destruction of one of the few remaining open spaces in Berkeley is intolerable.

The City of Berkeley is experiencing an historical residential housing vacancy rate. There is also a great deal of construction of condominiums and townhouses in progress, all of which are within walking distance to campus. It makes much more sense to utilize available housing within the stated objectives of the LRDP ("within one mile from campus") than to begin an environmentally unsound and costly project that will only have negative impacts on the city infrastructure and potentially put people's lives at risk during a fire or other emergency.

In view of the above, please explain how you are planning to mitigate all the health and safety hazards created for the neighborhood including inadequate egress in the case of fire and/or earthquake, increased traffic, noise, pollution, lack of infrastructure, and lack of parking, which will ensue due to the increase in population from the proposed high-density housing project.

Yours truly,

Tom Halbach
Tom Halbach
38 Senior Ave
Berkeley, CA 94708

LETTER C179

June 6, 2004

Jennifer Lawrence
University of California, Berkeley
Facilities Services
1936 University Avenue Suite #300
Berkeley, CA 94720-1380

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JUN 14 2004
PHYSICAL & ENVIRONMENTAL
PLANNING

Mr. Karl H. Dewies
1390 Summit Rd
Berkeley, CA 94708

RE: Comments on UC Berkeley's 2020 Long Range Development Plan (LRDP) Draft Environmental Impact Report

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Yours truly,

Karl H. Dewies
Karl H. Dewies
3
Karl H. Dewies

11.2C.173-179 RESPONSE TO COMMENT LETTERS C173 THRU C179

The University received 138 form letters signed by individuals, objecting to the proposal for up to 100 faculty housing units in the Hill Campus: C111-C121, C125-C159, C161-C165, C167-C171, C173-C179, C182-C183, C194-C216, C219-C239, C241-C250, C257, C259, C263-C264, C267, C278-C279, C282-C283, C285-C293, and C300. A few of these letters, such as C111, include brief postscript comments, primarily objecting to the number of current UC employees whom the writers assert are parking on city streets to avoid paying UC parking fees.

RESPONSE TO COMMENT LETTERS C173 THRU C179

See Thematic Response 8 for a comprehensive response to comments on Hill Campus development. Due partly to comments received and partly to its uncertain near-term feasibility, faculty housing has been deleted as a potential future Hill Campus use in the 2020 LRDP. As noted in Thematic Response 8, the site formerly designated H1 has been redesignated as a reserve site, while former site H2 has been redesignated as part of the surrounding research zone.

URBAN CREEKS COUNCIL OF CALIFORNIA



RECEIVED

JUN 14 2004

PHYSICAL & ENVIRONMENTAL
PLANNING**Via Email and Regular Mail**

Jennifer Lawrence
Co-Director, 2020 LRDP EIR
Facilities Services
1936 University Ave., # 300
University of California
Berkeley CA 94720-1382
2020LRDP@cp.berkeley.edu

**Re: Urban Creeks Council (UCC) Comments on UC Berkeley Draft
Environmental Impact Report for Proposed 2020 Long Range
Development Plan**

Dear Ms. Lawrence:

I have enclosed comments prepared by attorney Michael Graf, on behalf of the Urban Creeks Council (UCC), regarding the Draft Environmental Impact Report (DEIR) for UC Berkeley's proposed 2020 Long Range Development Plan (2020 LRDP).

These same comments will also be submitted by the Sierra Club, but as part of a separate package, since the Sierra Club has additional issues that it is addressing in its DEIR review.

Please contact Michael Graf with any questions regarding this document; he can be reached via telephone at 510-525-7222, or via e-mail at Mwgraf@aol.com.

Sincerely,

A handwritten signature in cursive script that reads "Juliet Lamont".

Dr. Juliet Lamont, Environmental Consultant
(on behalf of the Urban Creeks Council)

**Michael W. Graf
Law Offices**

227 Behrens St.,
El Cerrito CA 94530

Tel: 510-525-7222
Fax: 510-525-1208

June 14, 2004

Via Email and Regular Mail

Jennifer Lawrence
Co-Director, 2020 LRDP EIR
Facilities Services
1936 University Ave., # 300
University of California
Berkeley CA 94720-1382
2020LRDP@cp.berkeley.edu

Re: UC Berkeley Draft Environmental Impact Report for Proposed 2020 Long Range Development Plan

Dear Ms. Lawrence:

I am writing on behalf of the Urban Creeks Council to provide comments on the Draft Environmental Impact Report ("DEIR") for the University of California at Berkeley's ("UCB") Proposed 2020 Long Range Development Plan ("2020 LRDP"), prepared pursuant to the California Environmental Quality Act ("CEQA.") These comments follow on and incorporate Urban Creeks Council comments dated September 29, 2003.

I. INTRODUCTION AND SUMMARY

The 2020 LRDP proposes a significant expansion of UC Berkeley's operations, including an 18% expansion in gross square footage for academic and support facilities, a 32% increase in student housing and a 30% increase in parking facilities with a corresponding increase in associated traffic. This is a major amount of development, which will have significant impacts on the environment. The DEIR attempts to lock in this amount of growth under the CEQA review process while offering little specifics as to how to avoid the substantial impacts that will occur to the natural systems and local community in this area. Urban Creeks Council is particularly concerned regarding the inevitable impacts from this project to the creeks, culverts, storm drains and sewer systems that transfer surface water to the Bay.

The DEIR does not address the reality that continued expansion cannot avoid adding to environmental impacts that are already significant, such as the depletion and fragmentation of natural habitat, degradation, channelization and pollution of riparian corridors, excess loading on the City's fragile culvert, stormwater drain and sewage systems, lack of available housing, parking and traffic congestion, to name a few. The DEIR states generally that such impacts will be minimized to the maximum extent, but does not acknowledge that any additional impacts to

C180-1

these systems will be significant. Thus, the DEIR fails an informational document since it does not explain how significant impacts will be avoided or why UCB is justified in proceeding on a path of expansion despite the impacts that will. *See e.g., Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 392.

C180-1

Urban Creeks Council also disagrees with the proposition that approval of the 2020 LRDP constitutes a programmatic cumulative impact assessment of UCB's proposed expansion that would warrant tiering in subsequent projects. While the DEIR is a programmatic document, it does not in the end identify the standards to which mitigation would adhere, and thus does not provide an adequate framework in which to assess cumulative impacts or to provide a standard to which future projects may tier. Instead, the DEIR simply refers to UCB's promise to adhere to best management practices ("BMPs") even though there is no evidence that BMPs alone can prevent individual projects from having significant cumulative impacts in the future.

C180-2

Urban Creeks Council believes that UCB has a choice in how it wishes to proceed. As discussed below, the DEIR does not provide a meaningful explanation of why the proposed level of expansion is necessary nor desirable for the community at large. If UCB is nevertheless committed to such expansion, the 2020 LRDP should go beyond simply committing to "minimize" the inevitable impacts that will occur. Instead, the 2020 LRDP should commit to reducing UCB's overall cumulative demand on area resources below significant levels. If the 2020 LRDP does not make such a commitment, Urban Creeks Council believes the current EIR proposed for approval is contrary to law.

C180-3

II. SUMMARY OF UCB'S PROPOSED EXPANSION

The DEIR states that by the year 2020 UCB will add 2,200,000 gross square feet (GSF) of academic and support programs or 18% above current and approved space (21 % above current space), 2,600 new bed spaces or 32% above current and approved housing (52 % above current housing) and 2,300 parking spaces or 30 % above current and approved parking (43 % above existing parking.) (DEIR, p. 3.1-14, Table 3.1-2.)¹

The DEIR states that this projected growth is necessary to educate a larger student body and to support continued growth in research and associated facilities. The DEIR assumes this level of growth as part of UCB's evaluation of its own ability to accommodate a proportional share of new college age students projected to attend UCB by the year 2020. (DEIR, p. 3.1-13.) The DEIR considers briefly, but rejects the alternative of limiting the continued expansion of UCB's facilities and activities.

The DEIR breaks down its growth projections according to land use. It proposes adding to the Hill Campus up to 100,000 GSF of academic and support programs and up to 100 housing beds. It proposes adding up to 1,250,000 GSF to Adjacent Blocks around the campus, as well as up to 1,900 parking spaces. (DEIR, p. 3.1-22, Table 3.1-3.) The DEIR anticipates adding up to 2,600 housing beds, primarily in the Housing Zone situated in the near vicinity of campus.

¹The figures in parentheses referring to current space, housing or parking are derived from Table 3.1- 2 and the numbers given for uses approved but not yet built as of March 2004.

III. LEGAL BACKGROUND

CEQA's fundamental policy is that all public agencies "shall regulate such activities so that major consideration is given to preventing environmental damage." *Laurel Heights Improvement Assn. v. Regents of University of California* ("Laurel Heights"), *supra*, 47 Cal. 3d at 390; Pub. Res. Code § 21000(g). The "primary means" by which the legislative goals of CEQA are achieved is the preparation of an EIR. *Laurel Heights, supra*, 47 Cal.3d at 392; Pub. Res. Code §§21080(d), 21100, 21151; 14 Cal. Code Reg. §15080. The EIR has been described as "an environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Laurel Heights, supra*, 47 Cal.3d at 392; *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810. An EIR is intended to serve as "an environmental full disclosure statement." *Rural Land Owners Assn. v. City Council of Lodi* (1983) 143 Cal.App.3d 1013, 1020.

CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 Cal. Code Reg. § 15002(a)(1). An EIR must include a description of the physical conditions in the vicinity of the project at the time environmental analysis commences. 14 Cal. Code Reg. § 15125. This environmental setting will normally constitute the baseline physical conditions by which the lead agency determines whether an impact is significant. *Id. See also Planning & Conservation League v. Department of Water Resources* (2000) 83 Cal. App. 4th 892, 915-916; *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal. App. 3d 350, 357.

Aside from evaluating a proposed project's environmental impacts, an EIR must identify mitigation measures and alternatives to the project that may reduce or avoid the project's significant adverse impacts, thus accomplishing CEQA's basic statutory goals. *See Laurel Heights, supra*, 47 Cal.3d at 400-403; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564; Pub. Res. Code §§ 21002.1, 21100. This analysis of feasible mitigation measures and a reasonable range of alternatives is crucial to CEQA's substantive mandate that significant environmental damage be substantially lessened or avoided where feasible. Pub. Res. Code §§ 21002, 21081, 21100; 14 Cal. Code Reg. § 15002(a)(2) and (3). *Laurel Heights, supra*, 47 Cal.3d at 392, 404- 405. CEQA requires government agencies to disclose to the public the reasons why they have approved a particular project if it will result in significant adverse environmental effects. 14 Cal. Code Reg. § 15002(a)(4). "The EIR process protects not only the environment but also informed self-government." *Laurel Heights, supra*, 47 Cal.3d at 392.

When the EIR determines that significant adverse effects remain, even after the implementation of all feasible mitigation measures, the agency must balance the benefits of the project against its environmental harm to determine if the project should proceed. Pub. Res. Code §21002; § 21081(d); 14 Cal. Code Reg. § 15093. This "statement of overriding considerations," as the last step in the analysis, provides critical information to the public to fulfill the law's public disclosure requirement - that the EIR function as "a document of accountability" and "informed self government." *Sierra Club v. Board of Forestry* (1994) 7 Cal 4th 1215, 1229 (the agency "retains the power to approve a plan that has significant adverse

effects upon the environment, so long as it justifies its action in light of "specific economic, social, or other conditions.")

CEQA allows for the use of a "tiered" review process based on an initial programmatic EIR document. *See* Public Resources Code §§ 21068.5, 21093, 21094. These provisions allow an agency "to evaluate broad environmental issues, to respond to those issues in an EIR prepared at the planning stage, and to provide detailed examination of specific issues in EIRs on later development projects that are consistent with or implement the approved plan." *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal. App. 4th 182, 201. However, the fact that an EIR is programmatic does not mean it can avoid a meaningful and informative assessment of significant impacts that may occur as a result of aspects of the programmatic project. (*Id.* at 202 ("Calling it a "program" does not relieve the County from having to address the significant environmental effects of that project "); at 195 ("In our view, the County's approval of the project under these circumstances defeated a fundamental purpose of CEQA: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made."))

IV. GENERAL COMMENTS ON THE DEIR

The DEIR attempts to minimize the effect from the proposed 20-30% of future growth by promising to mitigate impacts as much as possible, subject to UCB's discretion in implementing future projects. For the most part, the DEIR relies on this analytical approach to find no significant impacts on a number of resources likely to be affected by the proposed project. The DEIR accomplishes this task by assessing impacts in a vacuum, without regard to the environmental setting of the area, and without a meaningful discussion of the cumulative effects from development that will also occur as a result of the long term development plans also proposed by the City of Berkeley and the Lawrence Berkeley National Laboratory. By failing to address the capacity of the local environment and City infrastructure to accommodate the significant growth proposed, however, the DEIR fails to fulfill its responsibilities to impart relevant information to the general public, as required under CEQA. *See e.g., Laurel Heights, supra*, 47 Cal.3d at 392.

C180-4

As discussed below, many of the impacts from future development, including reduction in habitat, degradation of creeks, stresses on City infrastructure, and reduction in available housing, will add to ongoing significant adverse impacts affecting these resources. These impacts, which add to the ongoing adverse effects of existing development, must be considered significant under CEQA. *Communities For a Better Environment v. California Resources Agency* (2002) 103 Cal. App. 4th 98, 114 (court rejects the concept of "de minimus" effects in assessing overall cumulative impacts on the existing environment.)

C180-5

Where significant impacts are expected to occur, CEQA requires the lead agency to identify mitigation measures and alternatives to the project that may reduce or avoid such impacts. *See Laurel Heights, supra*, 47 Cal.3d at 400-403; Pub. Res. Code §§ 21002.1, 21100. If UCB finds that such mitigation or alternatives are infeasible, UCB may adopt a statement of overriding considerations based on a finding that the benefits of the project against its

C180-6

environmental harm. Pub. Res. Code §21002; § 21081(d); 14 Cal. Code Reg. § 15093. Here, however, the DEIR does not demonstrate that mitigation or project alternatives are infeasible. C180-6

The stated purpose of the DEIR is to “evaluate” UCB’s ability to add approximately 4,000 full time students and accompanying educational and research facilities, faculty, employees, housing and parking over the next 15 years. (See DEIR, p. 3.1-13.) This is the proposed “project” to be evaluated under CEQA. Pub. Res. Code § 21065 C180-7

Rather than truly “evaluate” this option, however, the DEIR assumes that such growth is necessary and that other options such as the “no project alternative” are infeasible. The DEIR never fully explains why it is infeasible for UCB to continue to operate as a world-class university in the absence of continued expansion. The DEIR presents no information regarding other options available to the UC system in satisfying growing enrollment needs in the state besides adding significant more resource demands on UCB, the oldest and largest of the UC system universities. Thus, the DEIR does not adequately assess the project alternatives of reduced or no additional growth, which would avoid the significant impacts that will otherwise occur.

In addition, the DEIR does not assess the feasibility of, nor commit to, adopting mitigation that would ensure no additional impacts to resources that are already undergoing significant adverse affects from existing development. The DEIR does not, for example, commit UCB’s future growth to avoid additional pollutant loading in creeks within the project area. The DEIR does not commit UCB to avoid any further reduction in viable habitat, additional stresses on the City’s existing infrastructure, or reduction in available housing to non-students in the area. Such commitments would establish a baseline for the 2020 LRDP that would ensure that future projects are held to a high standard to avoid adding to existing stresses in the area. In the absence of such a commitment, the DEIR’s findings of no significant impact on these and other resources is unsupported and contrary to law. C180-8

V. SPECIFIC COMMENTS ON THE DEIR

A. THE DEIR IS NOT ADEQUATE AS A PROGRAMMATIC DOCUMENT FOR ALLOWING FUTURE PROJECTS TO BE APPROVED WITHOUT COMPREHENSIVE ENVIRONMENTAL REVIEW

The DEIR states that “this 2020 LRDP EIR is a first tier EIR that evaluates the potential effects of the entire 2020 LRDP at a program level.” (DEIR, p. 1-2.) The DEIR states that:

[S]ubsequent projects should be examined in light of the program-level EIR to determine whether subsequent project-specific environmental documents must be prepared. If no new significant effects would occur, all significant effects have been adequately addressed, and no new mitigation measures would be required, subsequent projects within the scope of the 2020 LRDP could rely on the environmental analysis presented in the program-level EIR, and no subsequent environmental documents would be required.

(*Id.*) Where these requirements are not all met and subsequent environmental review documentation required, the DEIR envisions that such projects can still rely on the findings made in this DEIR for a number of impacts:

These subsequent documents may rely on the program-level EIR for information on setting and regulatory framework, for analysis of general growth-related and cumulative impacts, and on alternatives to the 2020 LRDP. In general, the environmental analysis in these subsequent documents would focus on more specific project-level information not available for the 2020 LRDP EIR. Mitigation measures identified in the 2020 LRDP EIR that apply to significant impacts of the project would be implemented as part of the project, and would be identified in the project-specific review. Other project specific mitigation measures for significant impacts not addressed in detail in the 2020 LRDP EIR may also be implemented as part of the project. Such measures would be identified in the project-specific review.

(*Id.*)

CEQA allows a lead agency to tier individual projects to a programmatic environmental review document, but only where the programmatic document has accurately assessed the degree of cumulative impacts that will occur. *See e.g., Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency* (2000) 82 Cal.App.4th 511, 531 (“Designating an EIR as a program EIR ...does not by itself decrease the level of analysis otherwise required in the EIR”); Pub. Res. Code §§ 21068.5, 21093, 21094.

Urban Creeks Council disagrees with the assumption that future projects may rely on the impacts findings of the DEIR and FEIR for the 2020 LRDP to avoid and limit future necessary environmental review. As discussed below, the DEIR presents an exceedingly vague project description, which establishes a projected level of growth with little specifics as to how such growth will occur. The DEIR also does not accurately describe present and ongoing significant impacts to the existing environment and thus underestimates the cumulatively significant impacts that are inevitable from UCB’s proposed expansion. This assessment is not adequate to satisfy UCB’s obligation to assess the cumulative impacts of individual projects in the future. *See Stanislaus Natural Heritage Project v. County of Stanislaus, supra*, 48 Cal. App. 4th at 202 (“Calling it a “program” does not relieve the County from having to address the significant environmental effects of that project.”)

C180-9

B. THE DEIR DOES NOT CONTAIN AN ADEQUATE DESCRIPTION OF THE ENVIRONMENTAL SETTING FOR THIS PROJECT

CEQA requires that the EIR contain a full description of the environmental setting in which the project will occur. 14 Cal. Code Reg. § 15125; *San Joaquin Raptor v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722-723. In *San Joaquin Raptor*, the court held:

[T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by

CEQA." (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal. App.3d 818, 829. The error is prejudicial "if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process." (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App.3d 692, 712.)

Id. at 721-722

1. The DEIR's Description of the Environmental Setting as Part of the No Project Alternative is Inadequate

A central purpose for describing the environmental setting is to establish the baseline physical conditions by which a lead agency determines the need for a project and whether a project impact is significant. As discussed below, the environmental setting is also crucial for an agency's discussion of the "no project alternative" since, if the environmental setting is mischaracterized, the impacts or consequences of the no project alternative will be inaccurate. *Planning & Conservation League v. Department of Water Resources, supra*, 83 Cal. App. 4th at 911 ("CEQA requires that the no project alternative discussed in an EIR address "existing conditions" as well as "what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.")

The DEIR describes the "no project alternative" as insufficient to meet program objectives based on the following description of the environmental setting:

C180-10

While substantial capacity remains under the current LRDP to develop student housing and parking, virtually its entire allocation of 723,000 net additional GSF of program space has already been constructed. Regular term student headcount and total headcount have also both grown beyond the maxima prescribed under the current 1990- 2005 LRDP.

(DEIR, p. 5.1-17.) This description does not explain whether current building allotments are adequate to meet current capacity. Thus the DEIR does not inform the public about whether additional development would be required in the absence of additional growth in campus activities.

The DEIR also describes the need for the Project as "part of a University-wide strategy to continue to meet its obligations under the California Master Plan for Higher Education, in the face of dramatic growth in the number of college-age Californians: enrollment growth at Berkeley is an integral part of this strategy." (DEIR, p. 5.1-17.) The DEIR goes on to state that "this growth in enrollment requires a corresponding increase in faculty and academic and nonacademic staff, and therefore in campus facilities." (*Id.*)

C180-11

This description of the environmental setting is inaccurate because enrollment growth at Berkeley is not required, but is rather one option, for the University of California system to meet its obligations to satisfy the growing number of college-age Californians. The DEIR does not

present information that UC has made a system wide determination that UCB must grow by 20-30% in order to meet system wide obligations. The DEIR contains no discussion of alternatives within the UC system as to how to satisfy higher enrollment demands besides adding to the population in Berkeley, which already has a substantially higher number of students than the average California university.

C180-11

As stated by the Appellate Court in *Planning & Conservation League, supra*:

A no project description is non-evaluative. It provides the decision makers and the public with specific information about the environment if the project is not approved. It is a factually-based forecast of the environmental impacts of preserving the status quo. It thus provides the decision makers with a base line against which they can measure the environmental advantages and disadvantages of the project and alternatives to the project.

83 Cal. App. 4th at 913. Under CEQA, the feasibility of these alternatives can only be assessed in a meaningful way if UCB and the public are presented with an accurate account of the baseline against which they can measure the environmental advantages and disadvantages of the project and alternatives to the project. Since the DEIR fails to present this information accurately, its consideration of the environmental setting posed by the no project alternative is inadequate.

C180-12

2. The DEIR Does Not Acknowledge Existing Significant Impacts to Which this Project Will Contribute

UCB's has an obligation to describe the degree to which ongoing impacts of current development are affecting the capacity of natural and government infrastructure systems to accommodate additional impacts. *See e.g., Kings County Farm Bureau v. City of Hanford, supra*, 221 Cal.App.3d at 711, 722-723, *San Joaquin Raptor v. County of Stanislaus, supra*, 27 Cal. App. 4th at 722-723. 14 Cal. Code Reg. § 15125 ("An EIR must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, from both a local and regional perspective.")

C180-13

Here, the DEIR does not adequately or accurately describe the project's environmental setting because it fails to acknowledge the existing significant impacts occurring due to existing development in this area. In order to assess the cumulative impacts of a project, however, an accurate description of the environmental setting is essential since an agency must take into consideration past impacts on the environment to determine whether additional impacts may be significant. *Communities for a Better Environment v. California Resources Agency, supra* 103 Cal. App. 4th at 117 (proposed guidelines "would turn cumulative impact analysis on its head by diminishing the need to do a cumulative impact analysis as the cumulative impact problem worsens.")

a. **The DEIR Does Not Acknowledge the Existing Significant Impacts to the Natural Environment in the Affected Project Area.**

The DEIR does not acknowledge the existing significant impacts to areas that will be affected by UCB's development plans, including open space habitat on UCB's Hill Campus and Strawberry Creek and Cornices Creek. As discussed in previous comments, available habitat such as that offered by the Hill Campus is extremely rare in this urban environment, and thus extremely valuable for wildlife that depends on such habitat such as the federally listed California whipsnake. The DEIR does not acknowledge these existing significant impacts, however, and instead treats the incremental loss of future sections of habitat, including the removal of large trees, as "insignificant."

C180-14

The DEIR also does not acknowledge the existing ongoing significant impacts to Strawberry Creek and Cornices Creek and associated tributaries and drainages. This approach is contrary to the San Francisco Bay Regional Water Quality Control Board Bay Basin Water Quality Control Plan ("Basin Plan"), which states that "the two most important types of wildlife habitat are riparian and wetland habitats." (Basin Plan, p. 2-4.) The Basin Plan describes the cold-water fishery beneficial uses of these habitats as including, but not limited to, preservation or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates. (*Id.*) Such habitats "generally support trout and may support the anadromous salmon and steelhead fisheries as well." (Basin Plan, p. 2-2.) The environmental values of these habitats are threatened by development, erosion, and sedimentation, as well as by poor water quality. As noted by the Basin Plan, the water quality requirements of wildlife pertain to the water directly ingested, the aquatic habitat itself, and the effect of water quality on the production of food materials. Cold water habitats are commonly well-oxygenated and aquatic life within these waters is relatively intolerant to environmental stresses. Often, soft waters feed cold water habitats. These waters render fish more susceptible to toxic metals, such as copper, because of their lower buffering capacity." (*Id.*)

C180-15

The DEIR also does not acknowledge the existing significant impacts to the San Francisco Bay from runoff pollution. At this time, the San Francisco Bay has been listed as water-quality impaired under Section 303(d) of the federal Clean Water Act for a number of pollutants. The San Francisco Regional Water Quality Control Board has identified urban stormwater runoff pollution as a significant source for diazinon, mercury, polychlorinated biphenyls ("PCBs") and polycyclic aromatic compounds ("PAHs.") See 2002 CWA Section 303(d) List of Water Quality Limited Segment, San Francisco Regional Water Quality Control Board. pp. 4-5, 19-20.) In addition, the Regional Board has recently adopted the California Toxics Rule (CTR) criteria in lieu of existing Basin Plan objectives for eight pollutants, arsenic, cadmium, chromium (VI), copper (freshwater only), lead, nickel, silver, and zinc, in order to ensure that the Water Board is fulfilling its mandate to adopt water quality objectives that reasonably protect beneficial uses. See California Regional Water Quality Control Board San Francisco Bay Region, Summary of Basin Plan Amendment, January 21, 2004 ("Basin Plan Amendment.")

C180-16

Many of these pollutants are transmitted via surface water runoff or via sediment, which are both likely to increase due to proposed development activities and increased impervious

surface area. (Basin Plan, p. 4-28-4-30.) According to the Regional Board, the "primary sources of loadings for these metals are urban and nonurban stormwater runoff from local watersheds and inputs from the Sacramento and San Joaquin Rivers." See Staff Report re Proposed Amendment to the Water Quality Control Plan For the San Francisco Bay Basin Updating Water Quality Objectives And Implementation Language ("Staff Report"), December 19, 2003, Environmental Checklist. See also Memo from Steve Moore re "Regional Board Public Comments Received at CEQA Scoping Meeting for proposed Stream, Wetland and Waterbody Amendments," June 24, 2003. (Urban Creeks Council incorporates by reference those comments into this comment letter.)

C180-16

Given the existing fragmentation of local stream courses, the ongoing direct and indirect pollutant discharges into these streams, and the limited amount of remaining riparian habitat, any additional impacts to these sensitive habitats must be mitigated, as required by CEQA. See Pub. Res. Code § 21002. Further, since the development envisioned in the 2020 LRDP will contribute pollutants to the local hydrological system, these ongoing significant impacts must be acknowledged by the DEIR.

b. The DEIR Does Not Acknowledge the Existing Significant Impacts to Infrastructure in the Affected Project Area.

The DEIR does not discuss the current fragile state of the City's sewer and stormwater drain system and/or the ability of the City to handle substantial increases in sewage and stormwater runoff.

C180-17

A large portion of the City's sewer system is between 50 and 100 years old and is generally in a deteriorated condition. For example, the City's sewer system suffers from a number of ailments including:

- Old and deteriorated main and lateral pipes - Sewers range in age from 30 to 100 years with an average age of 50 years;
- Cracked sewer pipes - Existing sewers are mostly clay pipes which can crack as they deteriorate with age and also by earth movement;
- Misaligned and open pipe joints - Most of the mortar used to seal the joints between sections of clay pipe has deteriorated;
- Undersized sewer pipe - The existing sewer system is overloaded due to new sewer hook-ups, underground water infiltration, and illegal roof and/or yard drain connections;

Several of these conditions can lead to emergency sewer rehabilitation due to continuous sewage overflow onto private properties and creeks and collapse of the street pavement due to underground cavities caused by leaking sewer pipes. During intense, brief storms, flows in the sewer system can swell 5-10 times the dry weather sewer flows because of storm water infiltration. Cracks and open joints in the pipes allow rainwater and groundwater into the sewer system. This can result in overflows of diluted sewage and potential public health hazards. At

this time the City is in the 16th year of a 30 year compliance plan to meet Regional Board requirements for sewer replacement and rehabilitation, including the elimination of overflow conditions, increase in sewer carrying capacity, and upgrade and replacement of components of the sewer collection system.

The City's stormwater and culvert system is also old and undergoing numerous repairs as are the culverts that now carry the waters of local creeks. UCB is aware of the recent culvert failures on Strawberry Creek. Recently the City was forced to stop traffic around Shattuck Avenue in order to commence repairs on a culvert channeling the flow of Strawberry Creek at Allston Way.

Stormwater contamination can occur in two ways: directly when pollutants are dumped into storm drain sewers; and indirectly when contaminants are picked up by water runoff and conveyed into the storm drain sewer system. Direct contamination also includes illicit and illegal discharge of waste materials down storm drain sewers and illegal sanitary drain hook-ups. The potential failure of the City's sewage, stormwater and culvert system makes it more likely that pollutants will be transported to the Bay via stormwater runoff.

At this time the City operates under a municipal stormwater permit issued to a consortium of 17 county and city agencies established by the Alameda Countywide Clean Water Program (ACCWP) to facilitate compliance with federal stormwater regulations. The ACCWP developed a Storm Water Management Plan to meet the requirements of both the stormwater permit and the Bay Basin Plan developed by the San Francisco Regional Water Quality Control Board ("Regional Board") to prevent urban runoff pollution and to help restore the health of local creeks and San Francisco Bay.

Under this permit, the City is required to minimize to the maximum extent practicable the discharge of urban runoff pollution into local creeks and the Bay. In addition, the permit requires the City to avoid contributing in any way to the ongoing Basin Plan water quality violations in the Bay for diazinon, mercury, polychlorinated biphenyls ("PCBs") and polycyclic aromatic compounds ("PAHs.") These pollutants can all be transported through sediment delivery to the stormwater system. (See Basin Plan, p. 4-28-4-30, Staff Report.)

The DEIR also does not describe the current shortages of housing, particularly low-cost housing in Berkeley, and the current impacts of existing traffic patterns. At this time, the City has made findings that "[t]here is a continuing housing shortage and low vacancy rate in the City of Berkeley and the withdrawal of residential rental property from rent or lease will increase said shortage making it more difficult for tenants displaced by said withdrawal to find other housing as well as making it more difficult for other persons seeking housing to obtain it." Berkeley City Code § 13.77.010 (b.) The City Council has declared that "housing shortage exists which is inconsistent with the purposes of this chapter, and with the adopted goals and policies of the City as set forth in the housing element of the master plan. Berkeley City Code § 21.28.020(B.) To remedy this ongoing substantial impact, the City must "maintain an adequate supply of housing affordable to low income residents" and "avoid displacement of and undue hardship to residents of the City who may be required to move from the community due to a shortage of low income housing." Berkeley City Code § 21.28.020(A)(2)-(3.)

C180-18

Urban Creeks Council is also aware of numerous other ongoing significant impacts in this area including air quality and traffic flow and congestion that are not part of these comments. Urban Creeks Council incorporates by reference all other comments that discuss ongoing significant environmental impacts to which the 2020 LRDP shall contribute.

c. UCB's Failure to Acknowledge Ongoing Significant Impacts Skews the Environmental Analysis Set Forth in the DEIR

The DEIR's description of each of these aspects of the environmental setting is inadequate because it does not identify the ongoing significant impacts that affect these resources. As discussed below, any contribution by the 2020 LRDP to an existing significant impact is by definition also a significant impact that must be evaluated as such in the EIR process.

C180-19

By instead not identifying these ongoing impacts as significant, the DEIR permits UCB to make subsequent findings that additional contributions to these ongoing impacts will not be significant. This reasoning allows UCB to avoid having to address the feasibility of mitigation or alternatives to avoid such impacts, or even to adopt a statement of overriding considerations regarding the impacts that cannot be avoided. Pub. Res. Code §21002; § 21081(d); 14 Cal. Code Reg. § 15093. Thus the DEIR fails as an informational document both for UCB planners and for the general public. *See e.g., Planning & Conservation League v. Department of Water Resources, supra*, 83 Cal. App. 4th at 915-916; *Environmental Planning & Information Council v. County of El Dorado, supra*, 131 Cal. App. 3d at 357; *Sierra Club v. Board of Forestry, supra*, 7 Cal 4th at 1229.

C. THE PROJECT DESCRIPTION IS INADEQUATE

CEQA requires that the environmental review document contain a full and accurate description of the proposed project. *See e.g. Mira Monte Homeowners Assn. v. County of Ventura* (1985) 165 Cal. App.3d 357, 366; *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal. App.3d 818, 829-831; *County of Inyo v. UCB of Los Angeles* (1977) 71 Cal. App. 3d 185; 14 Cal. Code Reg. § 15124.² As the *County of Inyo* court noted:

Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e. the "no project" alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.

² *See also Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal. App. 4th 1344; *Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal. App. 4th 182, 201; *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal. App. 4th 351, 369-370; *Sacramento Old UCB Assn. v. UCB Council, supra*, 229 Cal. App. 3d at 1023; 14 Cal. Code Reg. § 15378(a.)

71 Cal.App.3d at 192.

Here, the DEIR describes the actual project in this case, a proposed expansion of 20-30 % in UCB facilities, personnel, housing and parking, without fully describing the impacts of such activities on the physical environment. For example, the DEIR does not appear to describe existing stormwater or sewage loads caused by UCB's ongoing activities, which would form the basis of estimating future loads caused by the proposed development in the 2020 LRDP. The DEIR does not provide information regarding its current – and thus likely future – contribution to pollution loading from surface water runoff, particularly as to pollutants subject to water quality controls under the current Basin Plan. Without this information included as part of the project description, it is difficult to assess whether the proposed development is likely to lead to significant cumulative effects.

C180-20

In addition, the DEIR does not accurately present the current regulatory setting which will control UCB's activities. While the DEIR describes potential future regulatory cooperation with the Regional Board, UCB does not currently operate its own stormwater permit, nor to Urban Creeks Council's knowledge does UCB currently operate under an approved Stormwater Management Plan. Thus, the DEIR's discussion of which regulatory controls shall be required is not accurate. If UCB is allowed to continue to operate without its own stormwater permit, the ability of regulators to enforce BMPs and control all water quality violations is greatly reduced.

C180-21

The DEIR also does not provide a meaningful description of the controls that would be imposed on other 2020 LRDP activities such as the acquisition of new housing, construction of new facilities, development of parking areas etc. The DEIR appears to give UCB planners considerable discretion to make project level determinations on numerous sensitive issues including retention of native vegetation and contiguous habitat blocks, retention of mature trees, development of surface water runoff controls and amount of overall additions to impervious surface areas, reduction in overall available housing to non-UCB affiliates etc. Without such specifics as part of the project description, however, the DEIR's purported "cumulative impacts" analysis does not provide the necessary information to determine whether or not future project impacts will be significant.

C180-22

Urban Creeks Council does commend UCB for seeking public input so early in its planning process. Indeed, CEQA requires environmental review "at the earliest feasible stage in the planning process." *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 307. However, the apparent intent of the DEIR appears to be to insulate the actual project decision, which is to commit to long-term substantial growth, without the information necessary to determine whether the environmental impacts of this decision will be significant.

C180-23

UCB justifies this approach by characterizing the DEIR as a programmatic document. However the DEIR is characterized, if the UCB wishes to tier to this EIR for site-specific projects, it may not defer the description of that project until after CEQA review is completed. *County of Inyo, supra*, 71 Cal.App.3d at 192 ("An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR") (emphasis added.) Otherwise

the DEIR violates the informational and public accountability purposes of CEQA. As stated by the Supreme Court in *Laurel Heights*:

An EIR is an "environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return. The EIR is also intended "to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action."... Because the EIR must be certified or rejected by public officials, it is a document of accountability. If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees.

47 Cal. 3d at 392 (emphasis added.)³

Here, the public has been informed only in gross generalities how UCB intends to minimize environmental impacts in the future, yet the DEIR purports to determine that the proposed future amount of growth will be generally insignificant and is thus desirable. Thus, the DEIR is not a "document of accountability" but rather a hedge on the part of the UCB to preserve the UCB's range of options in the future after the fundamental decision regarding the extent of future growth has already been decided. *See Friends of the Old Trees v. Department of Forestry & Fire Protection* (1997) 52 Cal. App. 4th 1383, 1402 ("the public has a right to know the basis on which its responsible officials either approve or reject environmentally significant action.") *Id.*

C180-24

D. THE DEIR FAILS TO IDENTIFY SIGNIFICANT IMPACTS FROM THE PROPOSED EXPANSION

The primary purpose of an EIR is to provide public agencies and the public alike with detailed information about the effect a project is likely to have on the environment, to list ways significant effects might be minimized, and to indicate alternatives to the project. Pub. Res. Code §§ 21002, 21002.1(a), 21061, 21100, 21150. Accordingly, an EIR must identify and

³ See also, *Mira Monte Homeowners Assn. v. County of Ventura*, *supra*, 165 Cal. App.3d at 366 ("CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project"); *Oro Fino Gold Mining Corp. v. County of El Dorado*, *supra*, 225 Cal. App. 3d at 884 ("CEQA process demands that environmental decisions be made in an accountable arena"); *Mountain Lion Coalition v. Fish and Game Commission* (1989) 213 Cal. App. 3d 1043, 1052 ("Only by requiring the [sponsoring agency] to fully comply with the letter of the law can a subversion of the important public purposes of CEQA be avoided, and only by this process will the public be able to determine the environmental and economic values of their elected and appointed officials, thus allowing for appropriate action come election day should a majority of the voters disagree.") *People v. County of Kern* (1974) 39 Cal. App.3d 830, 842 (same)

analyze all direct and indirect potentially significant environmental impacts of a project. Pub. Res. Code § 21100(b)(1); 14 Cal. Code Reg. § 15126.2(a).

Although the DEIR is a programmatic document, this does not excuse UCB from providing a meaningful analysis of cumulative impacts. *See e.g., Friends of Mammoth v. Town of Mammoth Lakes Redevelopment Agency, supra*, 82 Cal.App.4th at 531 (“Designating an EIR as a program EIR ...does not by itself decrease the level of analysis otherwise required in the EIR. “All EIR’s must cover the same general content. (Guidelines, §§ 15120-15132.) The level of specificity of an EIR is determined by the nature of the project and the ‘rule of reason’ [citation], rather than any semantic label accorded to the EIR.”)

C180-25

The DEIR fails to acknowledge a number of cumulatively significant impacts from the proposed expansion, based on the DEIR’s initial failure to identify the present ongoing significant impacts that are affecting certain parts of the physical environment.⁴ However, by contributing to an existing cumulatively significant effect, this project will have significant impacts under CEQA. *See Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 722; *EPIC v. Johnson* (1985) 170 Cal.App.3d 604, 624-625; 14 Cal. Code Reg. § 898 (“RPF shall assess the degree to which the proposed operations would result in impacts that may combine with existing listed stressors to impair a waterbody’s beneficial uses, thereby causing a significant adverse effect on the environment.”) As discussed, this is true wherever the proposed expansion:

- reduces the amount available habitat and contiguity of existing habitat;
- reduces the quality of riparian habitats in the project area;
- reduces the water quality of natural flowing creeks in the project area;
- discharges water-quality criteria pollutants into the City’s stormwater discharge system;
- increases the loading on the City’s existing sewer, stormwater and culvert systems;
- reduces the amount of available housing for UCB affiliated persons in Berkeley

These are just some of a number of examples of impacts from the proposed expansion that will be significant because they will add to existing significant impacts in and around the project area. (As stated above, Urban Creeks Council incorporates by reference other examples of significant impacts raised by other commentators.)

The DEIR avoids this issue generally by not assessing the ongoing impacts that are occurring, but instead by characterizing the additional effects of development as minimal. For

C180-26

⁴See 14 Cal. Code Reg. § 15382 (“Significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.”)

example, the DEIR promises that UCB will minimize to the maximum extent practicable stormwater pollution through the use of BMPs that have not yet been approved by the Regional Board. (See e.g., DEIR p. 4.7- 25-4.7-26.) Similarly, the DEIR adopts as a standard of significance for increasing available housing whether “the project would displace substantial numbers of existing housing or people.” (DEIR p. 4.10-10.) Thus, the DEIR concludes that the displacement of a less than substantial number of persons will not have significant impacts. (*Id.*) Elsewhere the DEIR states that increased impervious surface area will not lead to substantial increases in runoff pollution or that impacts to biological resources such as open space habitat, riparian plant communities or mature trees should not be substantial.

C180-26

The DEIR’s approach is fundamentally flawed because CEQA does not allow UCB to measure the incremental impacts of its project in a vacuum, without regard to the overall cumulative impacts that are occurring. See e.g., *Kings County Farm Bureau v. City of Hanford, supra*, 221 Cal. App.3d at 722 (court rejects agency’s finding that “since the project’s emissions are relatively minor when compared with other sources, ...the project would have no significant impact on air quality.”) Because it focuses only on “minimizing” the incremental impact of future development activities, the DEIR repeats the same erroneous procedure that the Court of Appeal rejected in *EPIC v. Johnson, supra*, wherein the Court stated:

[T]o address the cumulative effect issue the Department has taken the tact [sic] that if the adverse effects are minimized to the maximum on each individual operation, then the total effect on the surrounding area will also be minimized to an acceptable level.’ This statement is at odds with the concept of cumulative effect, which assesses cumulative damages as a whole, greater than the sum of its parts.

(*Id.* at 624-25.) See also *Communities For a Better Environment v. California Resources Agency, supra*, 103 Cal. App. 4th at 114 which rejected proposed regulations allowing for “de minimus” cumulative impacts to be ignored by the regulatory agency, stating that:

[T]he de minimus approach ...compares the incremental effect of the proposed project against the collective cumulative impact of all relevant projects. This comparative approach is contrary to CEQA section 21083 and to the Guidelines section 15355 definition of cumulative impacts, set forth above; this approach also contravenes CEQA case law.

In short, where significant impacts are already occurring, any additional impact must be considered significant. To the extent that the DEIR does not commit UCB to avoid such impacts altogether, it presents an incomplete analysis for the public’s review. *Laurel Heights, supra*, 47 Cal. 3d at 392

C180-27

In its FEIR, UCB has three options in regards to project impacts that will affect already substantially impacted aspects of the local physical environment.

C180-28

First, UCB may decide to reject the possibility of substantial further growth and adopt instead some version of the no-project alternative, or environmentally superior alternative, as discussed in the EIR and more fully below.

Second, UCB may commit to avoiding such impacts altogether, even if UCB believes they will be minimal. This would involve, for example, a commitment to mitigation that would result in no net discharge of stormwater pollution or loading, no net loss of housing, no net loss of quality habitat etc. UCB has at its disposal many options to make fulfill such a commitment, which is presently lacking in the DEIR or 2020 LRDP.

C180-28

Third, if UCB determines that significant adverse effects should be allowed to occur, even after the implementation of all feasible mitigation measures, the agency must balance the benefits of the project against its environmental harm to determine if the project should proceed, and, if so, adopt a "statement of overriding considerations." Pub. Res. Code §21002; § 21081(d); 14 Cal. Code Reg. § 15093. This last step in the EIR analysis provides critical information to the public to fulfill the law's public disclosure requirement - that the EIR function as "a document of accountability" and "informed self government." *See Sierra Club v. Board of Forestry* (1994) 7 Cal 4th 1215, 1229. In this case it would allow the public to review and understand more clearly UCB's ultimate determination in this case to reject the first two options as discussed above.

E. THE DEIR FAILS TO INCLUDE AN ADEQUATE DESCRIPTION OF ALTERNATIVES

An EIR must identify mitigation measures and alternatives to the project which may reduce or avoid the project's significant adverse impacts, thus accomplishing CEQA's basic statutory goals. *See Laurel Heights, supra*, 47 Cal.3d at 400-403; *Citizens of Goleta Valley, supra*, 52 Cal.3d at 564; Pub. Res. Code §§ 21002.1, 21100. Here the DEIR does not provide a meaningful assessment of the feasibility of less growth over the next 15 years and thus is contrary to CEQA's requirements.

C180-29

1. The DEIR's Description of the No Project Alternative is Inadequate

The "project" under consideration in the DEIR is UCB's decision as part of the 2020 LRDP to expand its facilities, housing and parking 20-30% over the next 15 years.⁵ Thus, the DEIR's "no project" alternative should assess the impacts and feasibility of not undertaking such expansion.

C180-30

Instead, the DEIR describes the "no project alternative" as keeping the current 1990-2005 LRDP in place. The DEIR's alternatives section states that this alternative is infeasible due to the projected growth that will occur over the next 15 years:

Alternative L-4, therefore, would leave the campus with two options. One would be to stop developing new program space. This is infeasible for several reasons. First, the growth in student enrollment is part of a University-wide strategy to continue to meet its obligations under the California Master Plan for Higher Education, in the face of

⁵Public Resources Code § 21065 defines a "project" as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." Only "projects" are subject to CEQA.

dramatic growth in the number of college-age Californians: enrollment growth at Berkeley is an integral part of this strategy. To maintain the quality of education at UC Berkeley, this growth in enrollment requires a corresponding increase in faculty and academic and nonacademic staff, and therefore in campus facilities. Second, the aging facility inventory at UC Berkeley must continue to be renewed, not only to remedy the space deficits created by enrollment growth, but also to provide the state-of-the-art space, technology, and infrastructure required by modern education and research.

C180-30

See DEIR, p. 5.1-17.

This type of analysis is both misleading and unlawful. The “no project” alternative cannot be rejected in conclusory fashion simply because it does not adopt the “project” proposed by the lead agency. Here, the projected growth is not a fact that must be assumed as a future baseline, but is instead the “project” that is purported to be proposed by this CEQA process. The DEIR lists reasons why such growth is inevitable, but any such inevitability is based on UCB’s own desire to grow and expand in the coming decades. As discussed above, this section of the DEIR continues the general distortion of the proposed CEQA analysis from an “evaluation” of the feasibility of future growth to a rationalization for allowing such growth to occur.

In sum, the DEIR does not provide a straightforward assessment of the pros and cons of an alternative decision to maintain the size of campus facilities and enrollment at near current levels. As discussed above, the DEIR does not discuss alternatives for the University of California system to meet its obligations to satisfy the growing number of college-age Californians besides adding to the already considerable amount of enrollment at UCB. Since enrollment growth at UCB is not a required result, but instead an option to be evaluated, the DEIR’s presentation of the no-project alternative fails. *Planning & Conservation League, supra*, 83 Cal. App. 4th at 913 (“A no project description is non-evaluative.”) In addition, as discussed above, this section also fails to discuss whether current building allotments are adequate to meet current capacity. Thus it also fails as an informational document. See *Laurel Heights, supra*, 47 Cal. 3d at p. 406 (“[T]he analysis must be specific enough to permit informed decision making and public participation. The latter function is especially important when, as in this case, the agency approving the proposed project is also its proponent or closely related to its proponent.”)

C180-31

2. The DEIR’s Analysis of Alternative L-1 is Inadequate

The DEIR’s discussion of project alternative L-1 is similarly inadequate. The DEIR claims that this lower growth alternative is inconsistent with project objectives to 1) stabilize enrollment at a level commensurate with our academic standards and our land and capital resources; 2) provide the space, technology and infrastructure we require to excel in education, research, and public service.

C180-32

The DEIR does not explain, however, why increased enrollment and accompanying support services is necessarily “commensurate” with UCB’s academic standards and land and capital resources. As discussed above, the purpose of the DEIR is to evaluate the possibility of increased enrollment, not to assume that such expansion is required for UCB. Nor is it clear why a larger expansion is required to meet UCB’s land and capital resources, as opposed to upgrading

the quality of UCB's current facilities. If continued expansion can be always justified on such a conclusory basis, the question is raised whether UCB will ever be satisfied with its current size and resource demands in the local community.

C180-32

F. THE DEIR UNLAWFULLY DEFERS MITIGATION NECESSARY TO AVOID FUTURE SIGNIFICANT IMPACTS

CEQA requires consideration of environmental consequences at the "earliest possible stage," even though more detailed environmental review may be necessary later. *Leonoff v. Monterey County Bd. of Supervisors*, *supra*, 222 Cal.App.3d at 1346; 14 Cal. Code Reg. § 15004(b)(1). The requirements of CEQA cannot be avoided by piecemeal review which results from "chopping a large project into many little ones--each with a minimal potential impact on the environment--which cumulatively may have disastrous consequences." *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283-284; *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325, 1333. Thus, "reasonably anticipated future projects" must be considered in an EIR and discussed in a cumulative analysis. *Laurel Heights*, *supra*, 47 Cal.3d at 390, 394; *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1449 1452. "Only in this manner can two or more individual effects be considered together to determine the overall environmental impact." *Terminal Plaza Corp. v. City and County of San Francisco* (1986) 177 Cal.App.3d 892, 904.

As noted by the Supreme Court and numerous other court decisions, the problem with allowing environmental review after project approval is that it creates an incentive on the part of the agency to rationalize the initial approval of a project on a "post-hoc" basis, thus narrowing the range of options available to the decision making body. *See also Citizens to Preserve Overton Park v. Volpe* (1971) 401 U.S. 402, 420; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 79, 86; *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal. App.3d 1022, 1026; *Environmental Defense Fund, Inc. v. Coastside County Water Dist.* (1972) 27 Cal. App.3d 695, 706.

Second, by proposing to select an alternative without having reviewed the feasibility of a necessary component of that alternative, the City violates CEQA's rule against deferring relevant and necessary environmental review to a later point, after project approval. *See e.g., Quail Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal. App. 4th 1597, 1601-1602 ([W]e note the City cannot rely upon post-approval mitigation measures adopted during the subsequent design review process"); *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal. App. 3d 872, 884 ("There cannot be meaningful scrutiny of a mitigated negative declaration when the mitigation measures are not set forth at the time of project approval"); *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 306-309. ("By deferring environmental assessment to a future date, the conditions run counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process"); Pub. Res. Code, § 21003.1.

In *Sundstrom v. County of Mendocino*, *supra*, the court noted:

Environmental problems should be considered at a point in the planning process "where genuine flexibility remains." [] A study conducted after approval of a project will inevitably have a diminished influence on decision making. Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA.

202 Cal. App. 3d at 307. Similarly, in *Oro Fino Gold Mining Corp.*, *supra*, 225 Cal. App. 3d at 884, the court noted:

One of the purposes of the [EIR] is to insure that the relevant environmental data are before the agency and considered by it prior to the decision to commit . . . resources to the project[I]n the absence of overriding circumstances, the CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an accountable arena.

Here, as discussed above, UCB appears to be committing itself to a future level of growth without making a similar commitment to avoid significant environmental impacts. Instead, the DEIR assumes that additional impacts will be minimized to the extent feasible. The DEIR does not, however, provide a coherent or meaningful explanation of how a 20-30% expansion in UCB facilities, personnel and parking will not have significant impacts on the local community and environment. The DEIR also does not set forth the mitigation measures that will be employed to avoid adding additional impacts to ongoing significant impacts as described above. Thus, the DEIR fails as an informational document since it does not describe how significant impacts will be avoided, as claimed in the DEIR.

C180-33

VI. CONCLUSION

Urban Creeks Council believes that adoption of the present DEIR as an FEIR is premature because UCB has not adequately explained why the proposed amount of growth is either necessary or desirable. To the extent that UCB is nevertheless committed to this level of growth, Urban Creeks Council believes UCB has an obligation to the natural environment, to the City and to the community at large to avoid any additional adverse impacts on the natural and infrastructure systems likely to be affected by the project. Urban Creeks Council urges UCB to take a leadership role in improving the quality of life in the area, rather than offering only a vague pledge to minimize additional adverse impacts to the extent feasible.

C180-34

Respectfully submitted,

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*Juliet Lamont
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Graf
and Urban Creeks
Council*

11.2C.180 RESPONSE TO COMMENT LETTER C180

RESPONSE TO COMMENT C180-1

The writers argue that the existing condition of natural habitats, riparian corridors, City drainage systems, traffic and housing availability is poor; therefore, any additional impact is significant.

CEQA sets forth standards of significance for determining significant impact, and the 2020 LRDP Draft EIR applies these standards within each environmental topic chapter; a general impression that conditions are poor is insufficient for analytical purposes under CEQA. However, the writers' opinions are noted.

RESPONSE TO COMMENT C180-2

See Thematic Response 1 regarding the role of the 2020 LRDP in project review. Please also see the above response to comment. The Draft EIR includes specific standards of significance used for analysis in each EIR chapter.

RESPONSE TO COMMENT C180-3

The academic principles underlying the 2020 LRDP appear at page 3.1-9, and the objectives of the 2020 LRDP appear at page 3.1-10 of the Draft EIR. Each subsequent section of the 2020 LRDP presents the intention behind the proposed program. The writers' opinions are noted.

RESPONSE TO COMMENT C180-4

The writers make general unsubstantiated accusations. See Thematic Response 5 regarding the use of qualifiers, and Thematic Response 6 regarding coordination with LBNL. Each chapter of the Draft EIR includes a description of existing conditions, relevant standards of significance, an analysis of the impacts of implementing the 2020 LRDP, and includes specific mitigation measures where appropriate.

RESPONSE TO COMMENT C180-5

The writers again argue that existing conditions are poor, thus, any impact is significant. CEQA sets forth standards of significance for determining significant impact, and the Draft EIR applies these standards within each environmental topic chapter; a general impression that conditions are poor is insufficient for analytical purposes under CEQA. However, the writers' opinions are noted.

RESPONSE TO COMMENT C180-6

The alternatives analysis for the 2020 LRDP appears at Chapter 5 of the Draft EIR. The Draft EIR makes no finding regarding the feasibility of alternatives and overriding considerations because The Regents, and not the Draft EIR authors, have that discretion.

RESPONSE TO COMMENT C180-7

The writers suggest that the Draft EIR should have considered University systemwide alternatives to growth at UCB. However, this would be only a different means of describing Alternative L-1, which considered lower enrollment and slower research growth. The UC Regents maintain discretion to examine variable growth plans for different campuses in the system.

RESPONSE TO COMMENT C180-8

The writers' assertions are inaccurate. See Continuing Best Practice HYD-2-a at page 4.7-26 of the Draft EIR, regarding pollutant loading, and Continuing Best Practice HYD-4-e at page 4.7-29 of the Draft EIR, which requires no net increase in runoff as a result of campus development. The University believes the 2020 LRDP and Draft EIR hold future projects to a high standard for environmental stewardship. The writers' opinion that UC Berkeley should commit to avoid such items as "reduction in available housing to non-students in the area" is noted.

RESPONSE TO COMMENT C180-9

The writers summarize earlier comments. Please see above responses; see also Thematic Response 1 regarding the role of the 2020 LRDP in future project review.

RESPONSE TO COMMENT C180-10

Campus space needs are described at pages 3.1-15 to 3.1-17 of the 2020 LRDP. As stated at the bottom of page 3.1-16:

Our estimates of future space needs are not due entirely to future growth: some new space is required just to compensate for the shortages we have today. The most recent survey of academic space at UC Berkeley, in 2001-2002, revealed a deficit of roughly 450,000 GSF in academic programs alone, based on university-wide guidelines for space utilization.

RESPONSE TO COMMENT C180-11

See response 180-7, above.

RESPONSE TO COMMENT C180-12

The writers assert that the no project alternative is inadequate because the EIR baseline is inadequate. However, the Draft EIR no project alternative complies with CEQA, which provides that "when the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the "no project" alternative will be the continuation of the existing plan, policy or operation in the future" (CEQA Guidelines section 15126.6(e)(3)(A)).

RESPONSE TO COMMENT C180-13

See response C180-5, above.

RESPONSE TO COMMENT C180-14

See response C180-5, above. The writers present no foundation for their assertion that the Hill Campus habitat is "extremely rare." The Draft EIR provides sources for baseline data presented. Further, as indicated in Continuing Best Practice BIO-1-a at page 4.3-26 of the Draft EIR, the Campus Specimen Tree Program would be implemented over the life of the 2020 LRDP.

RESPONSE TO COMMENT C180-15

See response C180-5, above. The existing water quality of Strawberry Creek is described at page 4.7-14 of the Draft EIR. The 2020 LRDP EIR addresses Strawberry Creek at Continuing Best Practice BIO-2-a, CBP BIO-2-b, CBP BIO-3, and the quality of waters feeding Strawberry Creek is protected by measures outlined in the Hydrology chapter. The quotes from the Basin Plan are acknowledged. The Basin Plan is cited in the Draft

EIR at page 4.7-1 and afterward as part of the regulatory framework guiding UC Berkeley operations.

RESPONSE TO COMMENT C180-16

The University disagrees with the writers' opinion that the Draft EIR lacks sufficient information about stormwater pollution conditions. See Draft EIR pages 4.7-14 through 4.7-15 for a discussion of existing surface water quality conditions. See Continuing Best Practice HYD-2-a, page 4.7-26 of the Draft EIR, which describes actions UC Berkeley undertakes to minimize pollutant loading.

RESPONSE TO COMMENT C180-17

The writers' assertion that the Draft EIR discussion of infrastructure is insufficient is noted. The Draft EIR acknowledges stormwater management plans and other RWQCB programs, and references the baseline conditions information in the Berkeley General Plan EIR.

RESPONSE TO COMMENT C180-18

Please see chapter 4.10 of the Draft EIR for a discussion of existing housing conditions, and the impacts of the 2020 LRDP on housing. CEQA sets forth standards of significance for determining significant impacts, and the Draft EIR applies these standards within each environmental topic chapter. A general perception that conditions are poor is insufficient for analytical purposes under CEQA. However, the writers' opinions are noted.

RESPONSE TO COMMENT C180-19

CEQA sets forth standards of significance for determining significant impacts, and the 2020 LRDP Draft EIR applies these standards within each environmental topic chapter; a general impression that conditions are poor is insufficient for analytical purposes under CEQA. However, the writers' opinions are noted.

Further, CEQA provides that an EIR discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable. The Draft EIR includes a discussion of cumulative impacts at the end of each environmental issue chapter. See, for example, the cumulative impact discussion for hydrology at pages 4.7-33 through 4.7-35 of the Draft EIR.

RESPONSE TO COMMENT C180-20

The Draft EIR presents calculations of existing sewage loads at page 4.13-8 to 4.13-9 of the Draft EIR. See corrections to these pages in this Final EIR. The existing water quality of Strawberry Creek is described at page 4.7-14 of the Draft EIR. UC Berkeley believes this information is correctly presented in the existing conditions section of each chapter, rather than in the project description, as requested by the writers.

RESPONSE TO COMMENT C180-21

The current regulatory framework is accurately described at page 4.7-1 to 4.7-5 of the 2020 LRDP Draft EIR.

RESPONSE TO COMMENT C180-22

The writers are referred to the 2020 LRDP Mitigation Monitoring Program in this volume for a consolidated reference describing controls that would be imposed on other 2020 LRDP activities.

RESPONSE TO COMMENT C180-23

The finite nature of the project analyzed in the Draft EIR is clearly stated in the Draft EIR. See page 3.1-14 of the Draft EIR.

RESPONSE TO COMMENT C180-24

Here the writers, and not the Draft EIR, characterize “the proposed future amount of growth” as “generally insignificant”. The Draft EIR discloses the full extent of future growth, rather than growing as projects arise; critics may find fault with either approach, the former as “vague” and the latter as “piecemealing.” However, UC Berkeley believes it has pursued the responsible approach in this instance.

RESPONSE TO COMMENT C180-25

CEQA sets forth standards of significance for determining significant impacts, and the Draft EIR applies these standards within each environmental topic chapter. Habitat, including riparian habitat, is discussed in chapter 4.3, Biological Resources; water quality is discussed in chapter 4.7, Hydrology and Water Quality; infrastructure capacity is discussed in chapter 4.13, Utilities and Service Systems; housing is discussed in chapter 4.10, Population and Housing

RESPONSE TO COMMENT C180-26

UC Berkeley is employing many stormwater best management practices that have been developed for the Regional Water Quality Control Board and have been accepted in permits for other entities. UC Berkeley submitted its permit application in 2003. Stormwater is also addressed in the cumulative analysis at page 4.7-34 of the 2020 LRDP DEIR.

Please see response C180-25 above regarding application of standards of significance.

RESPONSE TO COMMENT C180-27

The writers’ opinions are noted.

RESPONSE TO COMMENT C180-28

The Draft EIR finds significant unavoidable environmental impacts, as outlined at pages 6-1 to 6-3 of the Draft EIR. If the UC Regents approve the project, their decision would be supported by a statement of overriding considerations.

RESPONSE TO COMMENT C180-29

The writers summarize comments below. UC Berkeley disagrees with the writers’ assertions regarding the contents of the Draft EIR.

RESPONSE TO COMMENT C180-30

See response C180-12, above.

RESPONSE TO COMMENT C180-31

As set forth at page 3.1-13 of the 2020 LRDP, UC Berkeley has been asked to grow by 4,000 full time equivalent students over base year 1998 enrollment levels. A key academic principle of the Strategic Academic Plan notes that “our core purpose is to serve and benefit the people of California through the creation, dissemination and application of knowledge, including outreach to underserved communities” (2020 LRDP, page 3.1-9). See responses C180-7 and C180-10, above. While maintaining the

status quo is a possibility as outlined in Alternative L-4, and while limiting growth is an possibility as outlined in Alternative L-1, these alternatives would not meet university objectives.

RESPONSE TO COMMENT C180-32

For a discussion of the relationship between enrollment and academic excellence, the writers are referred to the UC Berkeley Strategic Academic Plan, referenced in the 2020 LRDP (see page 3.1-4, etc) and on the web at <http://lrdp.berkeley.edu>.

RESPONSE TO COMMENT C180-33

The University disagrees with the writers' assertions. See responses to above specific comments.

RESPONSE TO COMMENT C180-34

The University disagrees with the writers' assertions. See responses to above specific comments.

N O T H I N G W O R K S L I K E P E O P L E

MICHAEL
P H O N E N U M B E R
LETTER C181

RECEIVED

JUN 14 2004

PHYSICAL & ENVIRONMENTAL
PLANNING

Mrs. Lawrence.

Please accept these signed
petitions in support of bicycle
Access to the Strawberry
Canyon portion of the UC
Berkeley Lands.

Thank you,

Michael Mejia
"74"

6/10/04

(510) 236-4238
932 YUBA STREET
DICKINSON, CA 94605

Strawberry Canyon

Bike Access

Please Sign!

I urge U.C. Berkeley to allow mountain bike access to Strawberry Canyon as part of its Long-Range Development Plan. This is a worthwhile safety and environmental measure. Currently, local mountain bikers have to ride on busy roads or use cars to access trails in the Berkeley hills. It would be better to have the safe and environmentally sound option of using the dirt trails in Strawberry Canyon.

C181-1

NAME	ADDRESS	Date
<u>Jason VanHorn</u>	<u>180 MONTECITO AVE, OAKLAND, CA 94610</u>	<u>5/24/04</u>
<u>[Signature]</u>	<u>1017 B CAPITOL ST</u>	<u>VALLEJO 5/25/04</u>
<u>Rhonda Dierst-Davies</u>	<u>3744 16th St. #1, SF, CA 94114</u>	<u>5/26/04</u>
<u>John Joyce</u>	<u>437 Gonzales Ave Vallejo</u>	<u>94589 5/26/04</u>
<u>John Kelly</u>	<u>3837 Park Blvd. Oakland</u>	<u>CA 94602 5/28/04</u>
<u>Ken Adamman</u>	<u>5926 Alpine Rd San Pablo</u>	<u>CA 94806 5-28-04</u>
<u>Steve Blunt</u>	<u>951 Kern St Richmond, Ca</u>	<u>94805</u>
<u>Mark Suggs</u>	<u>5817 YANE AVE RICHMOND</u>	<u>CA 94805</u>
<u>Calvin Spivey</u>	<u>1191 Sutter St Berkeley</u>	<u>CA 94709</u>
<u>John Pollock III</u>	<u>525 Rincon Rd El Sobrante</u>	<u>Ca 94803 6-3-04</u>
<u>Melanie Clark</u>	<u>6146 McBryde Ave Richmond</u>	<u>CA 94805 6-5-04</u>
<u>Bob Miller</u>	<u>6146 McBryde Ave. Richmond</u>	<u>94805 6-5-04</u>

I urge U.C. Berkeley to allow mountain bike access to Strawberry Canyon as part of its Long-Range Development Plan. This is a worthwhile safety and environmental measure. Currently, local mountain bikers have to ride on busy roads or use cars to access trails in the Berkeley hills. It would be better to have the safe and environmentally sound option of using the dirt trails in Strawberry Canyon.

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<u>John J. Johnson</u>	<u>2724 Garber St Apt B Berkeley</u>	<u>5-25-04</u>
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<u>Cyrus Khojasteh</u>	<u>847 Geelston Pl El Cerrito, CA 94581</u>	<u>5-29-04</u>

11.2C.181 RESPONSE TO COMMENT LETTER C181

RESPONSE TO COMMENT C181-1

The comment presents 50 signatures on a petition supporting bicycling in Strawberry Canyon. Existing prohibitions on bicycle riding in the Hill Campus could be examined by the Management Authority proposed by the 2020 LRDP for the Ecological Study Area. See page 3.1-54 of the 2020 LRDP Draft EIR. The comment is not a comment on the 2020 LRDP or its Draft EIR; no further response is required.