

4. COMMENT LETTERS

The Initial Study/Mitigated Negative (IS/MND) for the 66-inch Trunk Sewer Rehabilitation Project was circulated for public review for 31 days (March 25, 2020 through April 24, 2020) in accordance with the requirements of CEQA Guidelines Section 15072(a). The IS/MND was also submitted to the California Office of Planning and Research's State Clearinghouse (SCH # 20203118) for distribution to Responsible and/or Trustee agencies of the State. Public notice of the availability of the IS/MND for public review was posted in the Napa Register, on the Napa Sanitation District (NapaSan) website, and was distributed to adjacent property owners. A copy the notice was also filed with the Napa County Clerk's office. On April 27, 2020, the SCH sent an e-mail correspondence to NapaSan that acknowledged that NapaSan had complied with requirements for draft environmental documents, pursuant to the CEQA.

NapaSan received two comment letters during the public review period, and one comment letter after the close of the comment period. These comments are listed in **Table 4-1** and are included following this page. The letters have been marked with brackets that delineate comments pertaining to environmental issues and the information and analysis contained in the IS/MND. Responses to these comments are provided in Section 5. Where comments have led to revisions or additions to the IS/MND, the revised or added text is shown in underline format.

Table 4-1: Comment Letters Received

Comment Letter No.	Commenter	Date of Comment
1	Yocha Dehe Wintun Nation	April 14, 2020
2	California Department of Fish and Wildlife	April 20, 2020
3	California Department of Transportation	April 30, 2020

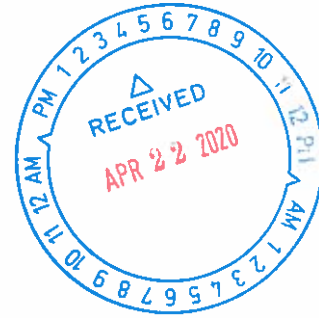
From: [Mikayla Vaba](#)
To: [Ono, Karl](#)
Subject: SCH# 2020031118
Date: Monday, April 27, 2020 4:00:00 PM

The State Clearinghouse would like to inform you that our office will be transitioning from providing a hard copy of acknowledging the close of review period on your project to electronic mail system.

Please visit: <https://ceqanet.opr.ca.gov/2020031118/2> for full details about your project and if any state agencies submitted comments by close of review period (note: any state agencies in bold, submitted comments and are available).

This email acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please email the State Clearinghouse at state.clearinghouse@opr.ca.gov if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.



April 14, 2020

Napa Sanitation District
Attn: Karl Ono, Associate Engineer
1515 Soscol Ferry Road
Napa, CA 94558

RE: Napa Sanitation District Pipeline Rehabilitation

Dear Mr. Ono:

Thank you for your notification letter regarding the intent to adopt a mitigated negative declaration for the proposed Napa Sanitation District Pipeline Rehabilitation Project, Napa, Napa County. We appreciate your effort to contact us and wish to respond.

1-1

Based on the information provided, the Tribe has concerns that the project could impact known cultural resources. We highly recommend including cultural monitors during all ground disturbing activities and request the hiring of tribal monitors be a condition of approval. Additionally, we recommend cultural sensitivity training for any pre-project personnel and request that you incorporate Yocha Dehe Wintun Nation's Treatment Protocol and requirement of cultural sensitivity training in to the mitigation measures for this project. We have also included a copy of the Tribes draft monitoring agreement for your review.

1-2

Please submit the updated mitigation measures to the Cultural Resources Department once completed. To setup a monitoring agreement, please contact the following individual:

Laverne Bill, Cultural Resources Manager
Yocha Dehe Wintun Nation
Office: (530) 723-3891
Email: lbill@yochadehe-nsn.gov

1-3

Please refer to identification number YD-08272019-02 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

Sincerely,


Leland Kinter (Apr 17, 2020)

Tribal Historic Preservation Officer



YOCHA DEHE
CULTURAL RESOURCES

Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation

The purpose of this Protocol is to formalize procedures for the treatment of Native American human remains, grave goods, ceremonial items, and items of cultural patrimony, in the event that any are found in conjunction with development, including archaeological studies, excavation, geotechnical investigations, grading, and any ground disturbing activity. This Protocol also formalizes procedures for Tribal monitoring during archaeological studies, grading, and ground-disturbing activities.

I. Cultural Affiliation

The Yocha Dehe Wintun Nation ("Tribe") traditionally occupied lands in Yolo, Solano, Lake, Colusa and Napa Counties. The Tribe has designated its Cultural Resources Committee ("Committee") to act on the Tribe's behalf with respect to the provisions of this Protocol. Any human remains which are found in conjunction with Projects on lands culturally-affiliated with the Tribe shall be treated in accordance with Section III of this Protocol. Any other cultural resources shall be treated in accordance with Section IV of this Protocol.

II. Inadvertent Discovery of Native American Human Remains

Whenever Native American human remains are found during the course of a Project, the determination of Most Likely Descendant ("MLD") under California Public Resources Code Section 5097.98 will be made by the Native American Heritage Commission ("NAHC") upon notification to the NAHC of the discovery of said remains at a Project site. If the location of the site and the history and prehistory of the area is culturally-affiliated with the Tribe, the NAHC contacts the Tribe; a Tribal member will be designated by the Tribe to consult with the landowner and/or project proponents.

Should the NAHC determine that a member of an Indian tribe other than Yocha Dehe Wintun Nation is the MLD, and the Tribe is in agreement with this determination, the terms of this Protocol relating to the treatment of such Native American human remains shall not be applicable; however, that situation is very unlikely.

III. Treatment of Native American Remains

In the event that Native American human remains are found during development of a Project and the Tribe or a member of the Tribe is determined to be MLD pursuant to Section II of this Protocol, the following provisions shall apply. The Medical Examiner shall immediately be notified, ground disturbing activities in that location shall cease and the Tribe shall be



YOCHA DEHE
CULTURAL RESOURCES

allowed, pursuant to California Public Resources Code Section 5097.98(a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and grave goods should be treated and disposed of with appropriate dignity.

The Tribe shall complete its inspection and make its MLD recommendation within forty-eight (48) hours of getting access to the site. The Tribe shall have the final determination as to the disposition and treatment of human remains and grave goods. Said determination may include avoidance of the human remains, reburial on-site, or reburial on tribal or other lands that will not be disturbed in the future.

The Tribe may wish to rebury said human remains and grave goods or ceremonial and cultural items on or near the site of their discovery, in an area which will not be subject to future disturbances over a prolonged period of time. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code Sections 5097.98(a) and (b).

The term "human remains" encompasses more than human bones because the Tribe's traditions call for the burial of associated cultural items with the deceased (funerary objects), and/or the ceremonial burning of Native American human remains, funerary objects, grave goods and animals. Ashes, soils and other remnants of these burning ceremonies, as well as associated funerary objects and unassociated funerary objects buried with or found near the Native American remains are to be treated in the same manner as bones or bone fragments that remain intact.

IV. Non-Disclosure of Location of Reburials

Unless otherwise required by law, the site of any reburial of Native American human remains shall not be disclosed and will not be governed by public disclosure requirements of the California Public Records Act, Cal. Govt. Code § 6250 et seq. The Medical Examiner shall withhold public disclosure of information related to such reburial pursuant to the specific exemption set forth in California Government Code Section 6254(r). The Tribe will require that the location for reburial is recorded with the California Historic Resources Inventory System ("CHRIS") on a form that is acceptable to the CHRIS center. The Tribe may also suggest that the landowner enter into an agreement regarding the confidentiality of site information that will run with title on the property.

V. Treatment of Cultural Resources

Treatment of all cultural items, including ceremonial items and archeological items will reflect the religious beliefs, customs, and practices of the Tribe. All cultural items, including ceremonial items and archeological items, which may be found at a Project site should be turned over to the Tribe for appropriate treatment, unless otherwise ordered by a court or agency of



YOCHA DEHE CULTURAL RESOURCES

competent jurisdiction. The Project Proponent should waive any and all claims to ownership of Tribal ceremonial and cultural items, including archeological items, which may be found on a Project site in favor of the Tribe. If any intermediary, (for example, an archaeologist retained by the Project Proponent) is necessary, said entity or individual shall not possess those items for longer than is reasonably necessary, as determined solely by the Tribe.

VI. Inadvertent Discoveries

If additional significant sites or sites not identified as significant in a Project environmental review process, but later determined to be significant, are located within a Project impact area, such sites will be subjected to further archeological and cultural significance evaluation by the Project Proponent, the Lead Agency, and the Tribe to determine if additional mitigation measures are necessary to treat sites in a culturally appropriate manner consistent with CEQA requirements for mitigation of impacts to cultural resources. If there are human remains present that have been identified as Native American, all work will cease for a period of up to 30 days in accordance with Federal Law.

VIII. Work Statement for Tribal Monitors

The description of work for Tribal monitors of the grading and ground disturbing operations at the development site is attached hereto as Addendum I and incorporated herein by reference.



YOCHA DEHE
CULTURAL RESOURCES

ADDENDUM I

**Yocha Dehe Wintun Nation
Tribal Monitors
Description of Work and Treatment Protocol**

I. Preferred Treatment

The preferred protocol upon the discovery of Native American human remains is to (1) secure the area, (2) cover any exposed human remains or other cultural items, and (3) avoid further disturbances in the area.

II. Comportment

All parties to the action are strongly advised to treat the remains with appropriate dignity, as provided in Public Resource Code Section 5097.98. We further recommend that all parties to the action treat tribal representatives and the event itself with appropriate respect. For example, jokes and antics pertaining to the remains or other inappropriate behavior are ill advised.

III. Excavation Methods

If, after the Yocha Dehe Tribal representative has been **granted** access to the site and it is determined that avoidance is not feasible, an examination of the human remains will be conducted to confirm they are human and to determine the position, posture, and orientation of the remains. At this point, we recommend the following procedures:

(A) Tools. All excavation in the vicinity of the human remains will be conducted using fine hand tools and fine brushes to sweep loose dirt free from the exposure.

(B) Extent of Exposure. In order to determine the nature and extent of the grave and its contents, controlled excavation should extend to a full buffer zone around the perimeter of the remains.

(C) Perimeter Balk. To initiate the exposure, a perimeter balk (especially, a shallow trench) should be excavated, representing a reasonable buffer a minimum of 10 cm around the maximum extent of the known skeletal remains, with attention to counter-intuitive discoveries or unanticipated finds relating to this or other remains. The dirt from the perimeter balk should be bucketed, distinctly labeled, and screened for cultural materials.

(D) Exposure Methods. Excavation should then proceed inward from the walls of the balk as well as downward from the surface of the exposure. Loose dirt should be scooped out and brushed off into a dustpan or other collective device. Considerable care should be given to ensure that human remains are not further impacted by the process of excavation.

(E) Provenience. Buckets, collection bags, notes, and tags should be fully labeled per provenience, and a distinction should be made between samples collected from: (1) **Perimeter**



YOCHA DEHE
CULTURAL RESOURCES

Balk (described above), (2) **Exposure** (dirt removed in exposing the exterior/burial plan and associations, and (3) **Matrix** (dirt from the interstices between bones or associations). Thus, each burial may have three bags, "Burial 1 Perimeter Balk," "Burial 1 Exposure Balk," "Burial 1 Matrix."

Please note the provisions below with respect to handling and conveyance of records and samples.

(F) Records. The following records should be compiled in the field: (1) a detailed scale drawing of the burial, including the provenience of and full for all human remains, associated artifacts, and the configuration of all associated phenomena such as burial pits, evidence for preinterment grave pit burning, soil variability, and intrusive disturbance, (2) complete a formal burial record using the consultants proprietary form or other standard form providing information on site #, unit or other proveniences, level depth, depth and location of the burial from a fixed datum, workers, date(s), artifact list, skeletal inventory, and other pertinent observations, (3) crew chief and worker field notes that may supplement or supercede information contained in the burial recording form, and (4) photographs, including either or standard photography or high-quality (400-500 DPI or 10 MP recommended) digital imaging.

(G) Stipulations for Acquisition and Use of Imagery. Photographs and images may be used only for showing location or configuration of questionable formation or for the position of the skeleton. They are not to be duplicated for publication unless a written release is obtained from the Tribe.

(H) Association. Association between the remains and other cultural materials should be determined in the field in consultation with an authorized Tribal representative, and may be amended per laboratory findings. Records of provenience and sample labels should be adequate to determine association or degree of likelihood of association of human remains and other cultural materials.

(I) Samples. For each burial, all **Perimeter Balk** soil is to be 1/8"-screened. All **Exposure** soil is to be 1/8"-screened, and a minimum of one 5-gallon bucket of excavated but unscreened **Exposure** soil is to be collected, placed in a plastic garbage bag in the bucket. All **Matrix** soil is to be carefully excavated, screened as appropriate, and then collected in plastic bags placed in 5-gallon buckets.

(J) Human remains are not to be cleaned in the field.

(K) Blessings. Prior to any physical action related to human remains, a designated tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for insuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.



YOCHA DEHE
CULTURAL RESOURCES

IV. Lab Procedures

No laboratory studies are permitted without consultation with the tribe. Lab methods are determined on a project-specific basis in consultation with Yocha Dehe Wintun Nation representatives. The following procedures are recommended:

(A) Responsibility. The primary archaeological consultant will be responsible for insuring that all lab procedures follow stipulations made by the Tribe.

(B) Blessings. Prior to any laboratory activities related to the remains, a designated tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for insuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.

(C) Physical Proximity of Associations. To the extent possible, all remains, associations, samples, and original records are to be kept together throughout the laboratory process. In particular, Matrix dirt is to be kept in buckets and will accompany the remains to the lab. The primary archaeological consultant will be responsible for copying all field records and images, and insuring that the original notes and records accompany the remains throughout the process.

(E) Additional Lab Finds. Laboratory study should be done making every effort to identify unanticipated finds or materials missed in the field, such as objects encased in dirt or human remains misidentified as faunal remains in the field. In the event of discovery of additional remains, materials, and other associations the tribal representatives are to be contacted immediately.

V. Re-internment without Further Disturbance

No laboratory studies are permitted on human remains and funerary objects. The preferred treatment preference for exhumed Native American human remains is reburial in an area not subject to further disturbance. Any objects associated with remains will be reinterred with the remains.



YOCHA DEHE
CULTURAL RESOURCES

VI. Curation of Recovered Materials

Should all, or a sample, of any archaeological materials collected during the data recovery activities – with the exception of Human Remains – need to be curated, an inventory and location information of the curation facility shall be given to tribe for our records.

Standard Monitoring Agreement
Between
Yocha Dehe Wintun Nation
And

This MONITORING AGREEMENT ("Agreement") is made and entered into as of _____, _____, by and between the Yocha Dehe Wintun Nation, a federally recognized Indian tribe ("Yocha Dehe" or "Tribe") on the one hand, and _____ (hereinafter "Contractor") on the other hand. Yocha Dehe and Contractor are collectively referenced hereinafter as the "Parties".

I. RECITALS

A. **Subject Matter:** This Agreement concerns the use and/or development of real property located within the area of _____, and which is the subject of development by Contractor. The development is commonly known as _____, hereinafter referenced as the "Project" and is described in Attachment I of this Agreement. As used herein, the Area of Potential Effect (or APE) includes

B. **Purpose:** The purpose of this Agreement is to establish fee schedules and terms for the use of Yocha Dehe tribal monitors for the Project; establish protocols for the relationship between Yocha Dehe and the Contractor; formalize procedures for the treatment of Native American human remains, grave goods, ceremonial items and any cultural artifacts, in the event that any are found in conjunction with the Project's development, including archaeological studies, excavation, geotechnical investigations, grading and any ground disturbing activity. This Agreement is entered into as mitigation under the California Environmental Quality Act ("CEQA") and/or the National Environmental Policy Act ("NEPA") and Section 106 of the National Historic Preservation Act ("Section 106"), and any such mitigation may be a condition of approval for said Project.

C. **Cultural Affiliation:** The Tribe traditionally occupied, and can trace its historical ties to, land in the Project's Area of Potential Effect ("APE" or "Project Area"). The Project is within the boundaries of the Yocha Dehe Linguistic Territory. Thus, cultural resources identified in the APE are related to the history and tradition of the Yocha Dehe Wintun Nation and Patwin speaking peoples. Yocha Dehe has designated its Cultural Resources Department to act on its behalf with respect to the provisions of this Agreement. Any Native American human remains, grave goods, ceremonial items, and cultural items or artifacts that are found in conjunction with the development of this Project shall be treated in accordance with the Provisions of this Agreement.

II. TERMS

A. **Incorporation of Recitals:** All of the foregoing recitals are accurate and are incorporated in this Agreement by reference.

B. **Term:** This Agreement shall be effective as of the date of execution and it shall remain in effect until the Project's completion.

C. **Scope of Services and Specifications:** Given the nature and sensitivity of archaeological sites and cultural resources that are or may be within the Project area (a map of which is shown and attached hereto as Attachment I), Yocha Dehe shall provide tribal monitoring and consultation for the Project during the archaeological investigations and all ground disturbing activities required for the Project. Yocha Dehe monitors will work in collaboration with the archaeologists, inspectors, project managers and other consultants hired/employed by the Contractor.

D. **Fee Schedule:**

The fee schedule for the use of Yocha Dehe Wintun Nation monitors and staff is as follows;

Native American Monitoring	\$75.00 hourly rate (per monitor)
Tribal Historic Preservation Officer/ Cultural Resources Director (4 hour minimum)	\$200.00 (per hour)
Tribal Executives (4 hour minimum)	\$200.00 (per hour)
Cultural Resources Manager (4 hour minimum)	\$175.00 (per hour)
Overtime (over 8 hrs in a day)	\$112.50 hourly rate (per monitor)
Weekend and Holiday Hours	\$112.50 hourly rate Saturday; and \$150.00 hourly rate Sunday and Holiday
Cultural Sensitivity Training	\$250.00 one time charge
Administrative Fee	15% of Invoice

Yocha Dehe's monitors will bill for time spent traveling to and from any Project site. In addition, Yocha Dehe shall be reimbursed for all costs associated with travel to and from the Project. Eligible items for cost reimbursement shall include, but not be limited to, mileage (or fuel purchases, at the submitter's election), hotel, and per diem (GSA rate).

E. **Coordination with County Coroner's Office.** In the event human remains are discovered on or near the Project site during its development, Contractor shall immediately contact the Coroner, the Yocha Dehe Cultural Site Protection Manager, the Cultural Resources Manager, Cultural Committee Chairman, the Tribal Chairman and/or the Yocha Dehe Cultural Resources Director. In order to facilitate this Agreement's implementation, the appropriate County Coroner's Office shall be provided a copy of this Agreement either before any earth disturbing activities or upon request of the Tribe. Yocha Dehe agrees to provide Contractor the needed contact information in order to comply with this provision. The Coroner shall be asked by the Contractor to determine if the remains are (1) human, (2) prehistoric, and further, the Contractor shall request the Coroner notify the State of California's Native American Heritage Commission in the event the remains are determined to

be Native American. The Contractor will compensate the Coroner for reasonable fees and costs, if applicable and required by the County Coroner's office.

F. **Most Likely Descendant (MLD)**: The Yocha Dehe Wintun Nation as the MLD for any Human Remains, Associated Funerary Objects and Artifacts found within the exterior boundaries of the Yocha Dehe Wintun Nation Linguistic Territory. Human Remains have been discovered within the Yocha Dehe Wintun Nation Linguistic Territory on occasion and in all of those cases, the Native American Heritage Commission ("NAHC") designated the Yocha Dehe Wintun Nation as the Most Likely Descendant ("MLD") under California Public Resources Code section 5097.98.

G. **Treatment and Disposition of Remains**. Where Native American human remains are discovered during the Project's development, and where Yocha Dehe has been designated the Most Likely Descendant (MLD), the following provisions shall apply to the Parties:

I. The Tribe shall be allowed, under California Public Resources Code sections 5097.98 (a) and 21083.2 and State CEQA Guidelines section 15064.5 (e), to: (1) inspect the site of the discovery; and (2) make recommendations as to how the human remains and grave goods shall be treated and disposed of with appropriate dignity.

II. The Tribe shall complete its inspection within twenty-four (24) hours of receiving notification from either the Contractor or the NAHC, as required by California Public Resources Code section 5097.98 (a). The Parties agree to discuss, in good faith, what constitutes "appropriate dignity" as that term is used in the applicable statutes.

III. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code sections 5097.98 (a) and (b) and 21083.2 and State CEQA Guidelines section 15064.5 (e).

IV. The Parties are aware that Yocha Dehe may wish to rebury the human remains and associated ceremonial and cultural items (artifacts) on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances. Should Yocha Dehe recommend reburial of the human remains and associated ceremonial and cultural items (artifacts) on or near the site of their discovery, the Contractor shall make good faith efforts to accommodate the Tribe's request.

V. The term "human remains" encompasses more than human bones because Yocha Dehe's traditions periodically necessitated the ceremonial burning of human remains, and monitors shall make recommendations for removal of cremations. Grave goods are those artifacts associated with any human remains. These items and the soil, in an area encompassing up to two (2) feet in diameter around the burial, and other funerary remnants and their ashes, are to be treated in the same manner as human bone fragments or bones that remain intact

H. **Treatment and Disposition of Cultural Items (Artifacts)**. Ceremonial items and items of cultural patrimony reflect traditional religious beliefs and practices of the Tribe. Contractor agrees to return all Native American ceremonial items and items of cultural patrimony that may be found on the Project site to the MLD for appropriate treatment, unless Contractor is ordered to do otherwise by a court or agency of competent jurisdiction. In addition, the Tribe requests the return

of all other cultural items (artifacts) that are recovered during the course of archaeological investigations on or adjacent to the Project site. Where appropriate (from the perspective of Yocha Dehe), and agreed upon in advance by Yocha Dehe, certain analyses of certain artifact types will be permitted, which may include, but which may not necessarily be limited to, shell, bone, ceramic, stone and/or other artifacts.

I. **Ownership Relinquishment.** Contractor waives any and all claims to ownership of Native American ceremonial and cultural artifacts that may be found on the Project site. If examination of cultural artifacts by an entity or individual other than the MLD is necessary, that entity or individual shall return said artifacts to the MLD within thirty (30) days, or any other agreed upon time frame from the initial recovery of the items.

J. **The Description of Work.** Description of work for Yocha Dehe monitors for the grading and ground disturbing operations at the Project site is provided in Attachment II to this Agreement and incorporated herein by this reference. Section I of Attachment II specifies the duties and responsibilities of the identified tribal monitoring crew and other specified parties. Section II of Attachment II identifies the geographical area over which the tribal monitoring crew shall oversee cultural resource mitigation and monitoring in accordance with California Public Resources Code section 21083.2 (c) and (k). Sections III and IV of Attachment II mandate compensation of the tribal monitoring crew by the Contractor.

K. **Confidentiality.** Unless otherwise required by law, the site of any reburial of Native American human remains shall not be disclosed and will not be governed by public disclosure requirements of the California Public Records Act, Cal. Govt. Code § 6250 et seq. The County Coroner shall withhold public disclosure of information related to such reburial pursuant to the specific exemption set forth in California Government Code Section 6254(r). Moreover, all records relative to consultation between the Parties shall be confidential and not subject to public disclosure as required by the California Public Records Act, Cal. Govt. Code § 6250 et seq.

Executed by:

Yocha Dehe Wintun Nation

(Company Name)

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: Tribal Historic Preservation Officer

Title: _____

Date: _____

Date: _____

ATTACHMENT I

[Insert Tract Map for Project Name]

DRAFT

Attachment II

NATIVE AMERICAN MONITORING OF GRADING AND GROUND DISTURBING ACTIVITIES

- I. **Specifications:** Given the nature and sensitivity of the archaeological sites and cultural resources that are in or may be within the Project area, the Yocha Dehe Wintun Nation, a federally recognized Indian tribe and the Most Likely Descendant as identified by the Native American Heritage Commission, shall provide the tribal monitoring, consultation and facilitation for this Project during the archeological investigations, and all ground disturbing activities for the Project. Yocha Dehe's monitors will work in concert with the archaeologists and Project engineers hired/employed by Contractor. The tribal monitors or Project archaeologists will be empowered to halt all earthmoving equipment in the immediate area of discovery when cultural items or features are identified until further evaluation can be made in determining their significance. It is understood that all surface and subsurface artifacts of significance shall be collected and mapped during this operation following standard archaeological practices.

After discovery of cultural items or features' discussions between the tribal monitors and project archaeologist will occur to determine the significance of the situation and best course of action for avoidance, protection of resources, and/or data recovery, as applicable.

- II. **Project to be Monitored:** Monitoring shall encompass the area known as _____ and shall be known as the Project area. It is agreed that monitoring shall be allowed for all archaeological studies, excavations, and groundbreaking activities occurring in conjunction with the development of the Project.
- III. **Project Crew Size:** The Parties to this Agreement project the need for a tribal monitoring crew size to be determined by the Cultural Site Protection Manager, in accordance with Yocha Dehe Wintun Nation Cultural Law. If the scope of the work changes (e.g., inadvertent discoveries of cultural resources or simultaneous grading of area that requires multiple tribal monitors), additional tribal monitors may be required. Developer agrees to directly compensate Yocha Dehe for all of the work performed by the tribal monitors. The compensation rate shall be made directly from Contractor to the Tribe in accordance with Section IV. If human remains are found, the coordination of the reburial of those remains and any associated cultural and ceremonial items shall be conducted in accordance with Sections III and IV of this Agreement.
- IV. **Insurance and Indemnity:** Yocha Dehe shall provide the tribal monitoring crew for the Project and shall be responsible for coordinating the tribal monitors' activities on the Project. The Tribe recognizes that dangerous conditions may exist on the work site, particularly during grading operations, and agrees to assume responsibility for the safety of the tribal monitoring crew while the crew remains on the Project site. The Tribe possesses the necessary insurance to cover any bodily injury or property damage that

may be suffered by the tribal monitors and proof of such insurance shall be made available to Contractor upon request.

- V. **Compensation:** Contractor shall directly compensate the Tribe in accordance with the following compensation rates and procedures. Invoices will be submitted on a monthly basis and shall be paid within 30 days of submittal to assure timely tribal monitor compensation and to further assure that tribal monitoring will not be terminated for the Project.

A minimum half-day charge ("show up" time) shall be charged to Contractor for unannounced work stoppages of the tribal monitors that are not due to actions by Yocha Dehe.

- VI. **Rights of Access/Stoppage/Consultation Upon Discovery:** Contractor shall provide Yocha Dehe tribal monitors with unencumbered access to the Project site as reasonably necessary for the monitors to effectively perform the services required by this Agreement. The tribal monitors and/or project archaeologist will be empowered to halt all earthmoving equipment in the immediate area of discovery when cultural items or features are identified until further evaluation can be made in determining their significance. It is understood that all surface and subsurface artifacts, Native American human remains, funerary objects, items of cultural patrimony, and any other cultural items shall be treated in accordance with an agreed upon artifact treatment and disposition plan.

After discovery of cultural items or features, discussions between the tribal monitors and project archaeologist will occur to determine its significance and the best course of action for avoidance, protection of resources, and/or data recovery, as applicable. While determinations will be mostly in the field, Yocha Dehe's tribal monitors may need to seek further guidance from the Most Likely Descendent, Yocha Dehe Tribal Council and/or the Cultural Resources Committee. If this rare occurrence should arise, Yocha Dehe reserves the right to request a 30-day stoppage of work.

Where circumstances warrant, the Contractor may be required, at its sole expense, to provide security personnel or remove unnecessary persons from the Project site. For example, where the safety of tribal monitors is at risk due to controversy or other circumstances surrounding a particular Project's development, security personnel would be provided at the Contractor's expense and members of the public excluded from the site. Likewise, where the protocol for the treatment of Native American human remains, funerary objects, artifacts, or items of cultural patrimony deems culturally required or appropriate, Contractor agrees unnecessary personnel will leave the site during the relevant time period.



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Comment Letter #2

April 20, 2020

Mr. Karl Ono
Napa Sanitation District
1515 Soscol Ferry Road
Napa, CA 94558
kono@napasan.com

Subject: 66-Inch Trunk Sewer Rehabilitation Project: Kaiser Road to Soscol Water Recycling Facility, Draft Mitigated Negative Declaration, SCH #2020031118, Napa County

Dear Mr. Ono:

California Department of Fish and Wildlife (CDFW) personnel have reviewed the draft Mitigated Negative Declaration (MND) for the 66-inch Trunk Sewer Rehabilitation Project: Kaiser Road to Soscol Water Recycling Facility (Project). CDFW is submitting comments on the draft MND to inform Napa County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW is submitting comments as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386, and is responsible for the conservation, protection, and management of the State's biological resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

Environmental Setting

The Project spans approximately 3 miles from the Soscol Water Recycling Facility, located at 1515 Soscol Ferry Road, to the intersection of Kaiser Road and Basalt Road to the north. The Project will cross Suscol Creek and Bedford Slough directly to the east of where they enter the Napa River. The Project area is comprised of industrial development and associated development, undeveloped grasslands, and open channel habitat, specifically Suscol Creek and Bedford Slough. The City of Napa proper lies approximately 3 miles to the north of the Soscol Water Recycling Facility, and the Napa Airport lies approximately 1 mile to the south.

Project Description

The proposed Project includes rehabilitation of an approximately 6,985-foot long, 66-inch wide reinforced concrete pipe trunk sewer, rehabilitation and replacement of existing manholes, installation of one new manhole, and bypass of sewage during construction. The Project also will install a cured-in-place pipe liner or spiral wound liner within the structurally compromised segments of the trunk sewer pipeline. To complete the bypass work, a temporary bypass

2-1

Mr. Karl Ono
 Napa Sanitation District
 April 20, 2020
 Page 2

system will be necessary. Bypass pipelines will be buried at roadway and driveway crossings, otherwise, pipelines will be installed above ground to minimize excavation and reduce time for installation and dismantling. The temporary bypass pipeline will span both Suscol Creek and Bedford Slough; and a temporary bridge will need to be constructed at Bedford Slough to support the pipeline.

Comments and Concerns

Salt marsh harvest mouse (SMHM; Reithrodontomys raviventris)

The Project area contains approximately 2.30 acres of brackish marsh habitat, which could support SMHM. Dependent on which bypass alignment alternative is selected for the Project, a portion of this habitat may be impacted by the Project. Impacts to marsh habitat, including vegetation removal/disturbance, could cause take of SMHM if the species is present during Project activities; and such take would be a significant impact under CEQA. SMHM is a fully protected species under the Fish and Game Code section 4700; therefore, CDFW cannot issue a permit for their take. Complete avoidance measures must be incorporated into the Project to ensure full take avoidance of the species. CDFW recommends choosing the alignment of the Project that will avoid marsh habitat to the greatest extent feasible. If marsh habitat must be impacted, CDFW recommends that Mitigation Measure BIO 4A be replaced with the following language to reduce potential impacts to less-than-significant:

Prior to Project activities (e.g. vegetation removal, disturbance to vegetation) occurring in potential SMHM habitat each day, an approved qualified biologist, familiar with salt marsh harvest mouse (SMHM), shall walk through and inspect suitable habitat prior to vegetation removal and search for signs of harvest mice or other sensitive wildlife and plants. If a mouse of any kind is discovered, no work shall occur within 150 feet of where the mouse was discovered. Following inspection, personnel, under the supervision of the qualified biologist, will disturb (e.g., flush) vegetation to force movement of SMHM into adjacent marsh areas. Flushing of vegetation will first occur in the center of the site then progress toward the two sides away from the open water areas. Immediately following vegetation flushing, personnel, under the supervision of the qualified biologist, will remove vegetation with hand tools (e.g. weed-eater, hoe, rake, trowel, shovel, grazing) so that vegetation is no taller than 2 inches. If string trimmers (a.k.a. weed whackers) are used, they shall be used to the minimum extent necessary and shall be used to take down vegetation height a couple inches at a time so that the biological monitor can search for potential SMHM nests. If a nest is discovered, all work shall stop immediately and CDFW shall be notified. Work shall not resume until CDFW provides written permission to do so. Alternatively, livestock grazing (e.g. sheep) can be used to remove all vegetation to ground level. Vegetation removal shall include a 2-foot wide buffer from the edge of the project site to ensure mice will not enter the project site. Large equipment shall not enter suitable SMHM habitat until all vegetation has been taken down to ground level. If an injured or killed mouse is discovered at any time during Project activities, all work shall cease immediately and CDFW shall be contacted for further direction. A restoration ecologist with documented experience with salt marsh habitat restoration shall monitor the site to ensure that marsh habitat restores naturally to the same coverage rate prior to disturbance. If after 3 years, the site is not revegetated, the restoration ecologist shall develop a site restoration plan to revegetate all salt marsh habitat temporarily

Mr. Karl Ono
Napa Sanitation District
April 20, 2020
Page 3

impacted by the Project. Restoration may include hand transplanting of marsh vegetation (e.g. pickleweed) from clean donor areas.

Swainson's hawk (SWHA; Buteo swainsoni)

There is a high potential for breeding or nesting SWHA to occur within 0.5 miles of the Project area between the period of March 1 to September 15 (i.e. typical breeding season). Project activities resulting in elevated noise levels could result in take (e.g. nest abandonment) if such activities occur within 0.5 miles of an active nest, and if Project-generated noise is significantly greater than ambient conditions. CDFW recommends working outside of nesting season, September 16 to February 28. If that is not feasible, to reduce impacts to less-than-significant, CDFW recommends that Mitigation Measure BIO-9A be revised as follows:

2-3

A qualified biologist with documented experience conducting protocol-level surveys for SWHA shall conduct pre-construction surveys in accordance with the Swainson's Hawk Technical Advisory Committee's Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (May 31, 2000). The qualified biologist shall conduct 3 surveys in each of the two survey periods prior to the start of Project activities, for a total of 6 survey visits. If breeding Swainson's hawk are observed within 0.5 miles of where Project activities will be occurring, CDFW shall be notified by the Project proponent to discuss appropriate avoidance and minimization measures. Appropriate measures may include having a qualified biologist or trained biological monitor on-site each day during Project activities to ensure the Project does not disturb nesting behavior. If an active Swainson's hawk nest is discovered in close proximity to where Project activities must occur, CDFW may require the Project proponent to get a CESA Incidental Take Permit prior to the start of the Project.

Roosting bats

The draft MND states that no tree or building removal will occur as a result of the Project. However, if tree or building removal were to occur, Mitigation Measure BIO-5A (MM BIO-5A) would be implemented to reduce impacts on roosting bats to less-than-significant. While CDFW agrees on the intent of MM BIO-5A, it recommends that MM BIO-5A be revised as follows:

If trees or buildings need to be removed for the Project, a qualified biologist shall conduct a bat habitat assessment of all trees and/or buildings proposed for removal to determine presence of roosting bats. Any trees containing suitable bat roosting habitat (e.g. cavities, crevices, deep bark fissures) shall be marked and removed using a two-day phased method as follows: On day 1, under the supervision of a qualified biologist, all limbs not containing suitable bat roosting habitat shall be removed using chainsaws only. The next day, the rest of the tree shall be removed.

2-4

All trees shall be removed during seasonal periods of bat activity: Prior to maternity season – from approximately March 1 (or when night temperatures are above 45°F and when rains have ceased) through April 15 (when females begin to give birth to young); and prior to winter torpor – from September 1 (when young bats are self-sufficiently volant) until about October 15 (before night temperatures fall below 45°F and rains begin). If tree removal must occur outside of these timeframes, a qualified biologist shall survey the trees to the extent

Mr. Karl Ono
Napa Sanitation District
April 20, 2020
Page 4

feasible to determine if maternity colonies are winter torpor bats are present. If present, the tree shall not be removed until females have given birth to young and when young bats are self-sufficiently volant, as determined by a qualified biologist.

If roosting bats or evidence thereof is discovered within any buildings proposed for removal, the qualified biologist who conducted the assessment shall prepare an Avoidance and Minimization Plan (Plan) for the Project that has specific measures to be implemented prior to and during building removal. The Plan shall be reviewed and approved by CDFW prior to the start of Project activities.

2-4
(con't)

Biological Surveys

CDFW recommends that Mitigation Measures BIO 3A, and 5A – 12A, be revised where appropriate to specify that biological surveys will be conducted by a qualified biologist. Otherwise, the measures could be misinterpreted to mean that anyone could conduct biological surveys.

2-5

Filing Fees

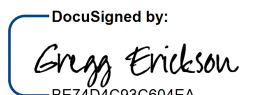
CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

2-6

CDFW appreciates the opportunity to provide comments on the draft MND for the proposed Project and is available to meet with you to further discuss our concerns. Additionally, CDFW is available to work with the project applicant in order to complete their Notification for a Lake or Streambed Alteration Agreement. If you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at garrett.allen@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at karen.weiss@wildlife.ca.gov.

2-7

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse

DEPARTMENT OF TRANSPORTATION

DISTRICT 4
OFFICE OF TRANSIT AND COMMUNITY PLANNING
P.O. BOX 23660, MS-10D
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
TTY 711
www.dot.ca.gov

Comment Letter #3

*Making Conservation
a California Way of Life.*

April 30, 2020

SCH # 202003118
GTS # 04-NAP-2020-00198
GTS ID: 19215
NAP/VAR/VAR

Karl Ono, PE
Napa Sanitation District
1515 Soscol Ferry Road
Napa, CA 94558

66-inch Trunk Sewer Rehabilitation Project: Kaiser Road to Soscol Water Recycling Facility (SWRF)- Initial Study and Mitigated Negative Declaration (IS/MND)

Dear Karl Ono:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the 66-inch Trunk Sewer Rehabilitation: Kaiser Road to SWRF Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the March 2020 IS/MND.

Project Understanding

The project proposes to rehabilitate approximately 6,935 linear feet of 66-inch diameter trunk sewer pipeline using a trenchless rehabilitation lining system. The sewer rehabilitation work requires installation of a temporary sewer bypass system, which would be installed above-ground at roadways, driveway crossings, and through intersections where they would be temporarily shallow buried.

The IS/MND evaluates the potential environmental impacts of all alternatives to place the bypass pipelines. The preferred option is the Cured In Place Pipe (CIPP) method using Bypass Alternative 2 for crossing of the Bedford Slough. Project work will take place across State Route (SR)-12/29 near post mile (PM) 7.06 and a temporary diversion will pass near PM 6.66.

Cultural Resources

The IS/MND does not clearly indicate whether an architectural historian has completed the field work for built resources. An architectural historian should complete a field survey, review the records, and conclude the level of potential impact of this project on the historic built resources. If there are no changes to the historic properties within the Area of Potential Effect (APE), this project should have a "No Historic Properties Affected" finding, instead of a "No Adverse Effect" finding. However, if there will be an effect on the historic properties, a more robust analysis of effects should be completed per criteria of adverse effects, 36 CFR § 800.5.

3-1

Structures

The IS/MND does not include sufficient detail to specify where the existing or bypass sewer lines are with respect to the SR-12/29 bridge as well as any other local agency bridges. Please submit plot plans with dimensions and details for Caltrans to review.

3-2

Hydraulics

Please note that any increase in runoff that drains towards the State Right of Way (ROW) should be metered to pre-construction levels.

3-3

Lead Agency

As the Lead Agency, the Napa Sanitation District is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

3-4

Encroachment Permit

Please be advised that any permanent work or temporary traffic control that encroaches onto the ROW requires a Caltrans-issued encroachment permit. If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application, six (6) sets of plans clearly delineating the State ROW, six (6) copies of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement

3-5

(MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement. To download the permit application and to obtain more information on all required documentation, visit <https://dot.ca.gov/programs/traffic-operations/ep/applications>.

3-5
(continued)

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Yunsheng Luo at Yunsheng.Luo@dot.ca.gov.

Sincerely,



Mark Leong
District Branch Chief
Local Development - Intergovernmental Review

cc: State Clearinghouse