

## 5. RESPONSES TO COMMENTS

### Letter 1: Yocha Dehe Wintun Nation

#### Comment 1-1

The commenter expresses thanks to the Napa Sanitation District (NapaSan) for contacting the Yocha Dehe Wintun Nation and indicates they would like to respond to the IS/MND.

#### Response 1-1

Napa Sanitation District appreciates the Yocha Dehe Wintun Nation's interest in the proposed project.

#### Comment 1-2

The commenter states that the Tribe has concerns the Project could impact known cultural resources. The commenter recommends cultural monitoring during all ground disturbing activities, and requests the hiring of tribal monitors be a condition of project approval. The commenter also recommends cultural sensitivity training for any pre-project personnel and requests that NapaSan incorporate Yocha Dehe Wintun Nation's Treatment Protocol and requirement of cultural sensitivity training into the mitigation measures for the Project.

#### Response 2-1

NapaSan understands that the Tribe has concerns about impacts to known cultural resources. As discussed in IS/MND Section 3.5, *Cultural Resources*, the cultural resources records and field data suggest only a minimal potential for exposing subsurface prehistoric cultural materials, and the limited excavation for the sewer rehabilitation work would be in previously disturbed sediment over and immediately adjacent to the existing buried pipe. The temporary bypass pipelines would be installed on the surface along various paved and unpaved roads with minimal subsurface disturbance except for shallow excavation at the three buried crossings. Other features associated with the above-ground bypass pipelines would have minimal surface disturbance footprints with no planned excavation. Therefore, it was concluded that the potential for encountering cultural resources is considered low and monitoring is not recommended. The IS/MND currently includes two mitigation measures that address procedures in the event of an unanticipated discovery (**MM CUL-1** and **MM CUL-2**). **MM CUL-1** has been revised and expanded to include the following sentence: "*Consultation with the Yocha Dehe Wintun Nation shall be undertaken by the USACE and NapaSan to discuss appropriate treatment of significant prehistoric discovery(ies)*" (See Section 3.5, *Cultural Resources*). To further address unanticipated discoveries, the project now includes a new mitigation measure for pre-construction cultural sensitivity training for site workers (**MM CUL-3** in Section 3.5), which reads as follows:

**Mitigation Measure CUL-3 Cultural Resources Sensitivity Training.** Prior to start of any ground-disturbing activities, a qualified archaeologist shall conduct cultural resources sensitivity training for all construction personnel associated with the Project. Construction personnel shall be informed of the types of cultural resources that may be encountered during construction, and of the proper procedures to be enacted in the event of an inadvertent discovery of archaeological resources or human remains. Napa Sanitation District shall ensure that construction personnel are made available for and attend the training and retain documentation demonstrating attendance.

The addition of **Mitigation Measure CUL-3** does not change the level of significance discussed in the IS/MND; impacts remain less than significant with mitigation measures incorporated.

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## Letter 2: California Department of Fish and Wildlife (CDFW)

### Comment 2-1

The commenter notes that CDFW has reviewed the IS/MND and expresses concerns regarding potentially significant impacts to sensitive resources associated with the Project.

### Response 2-1

NapaSan appreciates comments on the Project from CDFW in its role as a Trustee Agency and Responsible Agency under CEQA. *Section 3.4, Biological Resources* of the IS/MND has identified project impacts to sensitive biological resources and has proposed a number of mitigation measures to reduced impacts to less than significant.

### Comment 2-2

The commenter notes that the 2.30 acres of brackish marsh habitat may support the Salt marsh harvest mouse, a fully protected species under the California Department of Fish and Game Code section 4700 and states that complete avoidance measures must be incorporated into the Project to ensure full take avoidance of the species. The commenter recommends choosing the alignment that avoids marsh habitat to the greatest extent feasible, and if this habitat must be impacted, recommends replacing **Mitigation Measure BIO 4** with the language below.

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

### Response 2-2:

NapaSan has accepted this recommended revision, and **Mitigation Measure BIO-4** in *Section 3.4, Biological Resources* has been replaced with the language above. The finding of less than significant with mitigation incorporated remains unchanged.

**Comment 2-3**

The commenter notes there is a high potential for breeding or nesting of the Swainson's hawk within 0.5 miles of the Project during the breeding period (March 1 to September 15) and is concerned that project-generated noise could result in take (nest abandonment) if such activities occur within 0.5 miles of a nest and if Project-level noise is significantly greater than ambient noise. The commenter recommends working outside of breeding season, but if that is not possible, CDFW would like **Mitigation Measure BIO-9A** to be revised as follows:

*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.*

**Response 2-3:**

NapaSan has accepted this recommended revision, and **Mitigation Measure BIO-9A** in Section 3.4, *Biological Resources* has been replaced with the language above. The finding of less than significant with mitigation incorporated remains unchanged.

**Comment 2-4**

The commenter acknowledges that the IS/MND states that no tree or building removal will occur as a result of the Project. However, to protect roosting bats in the event that tree or building removal were to occur, the commenter recommends that **Mitigation Measure 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.*

*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 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.*

**Response 2-4**

NapaSan has accepted this recommended revision, and **Mitigation Measure BIO-5A** in *Section 3.4, Biological Resources* has been replaced with the language above. The finding of less than significant with mitigation incorporated remains unchanged.

**Comment 2-5**

The commenter recommends that **Mitigation Measures BIO-3A and BIO-5A – BIO-12A**, be revised where appropriate to specify that biological surveys will be conducted by a qualified biologist.

**Response 2-5**

NapaSan has accepted this recommended revision to **Mitigation Measures BIO-3A**, and **BIO-5A – BIO-12A**. These changes are reflected in *Section 3.4, Biological Resources*. The finding of less than significant with mitigation incorporated remains unchanged.

**Comment 2-6**

The commenter states that CDFW environmental review fees will be required upon filing the CEQA Notice of Determination (NOD).

**Response 2-6**

NapaSan will pay the required CDFW environmental review fee upon filing the NOD with the Napa County Clerk.

**Comment 2-7**

The commenter states that CDFW is available to meet with NapaSan, if desired, to discuss CDFW concerns, and that CDFW is available to work with NapaSan to complete the Notification for a Lake or Streambed Alteration Agreement.

**Response 2-7**

On January 7, 2020, NapaSan submitted a Notification for a Lake or Streambed Alteration Agreement to CDFW for the proposed bypass crossing of the Bedford Slough, and has been in communications with Garrett Allen of CDFW to provide additional requested information. NapaSan's application was deemed complete on April 24, 2020, as noted in a letter from Karen Weiss, CDFW, Senior Environmental Scientist, dated April 29, 2020.

**Letter 3: California Department of Transportation (Caltrans)****Comment 3-1:**

The commenter recommends that an Architectural Historian complete a field survey, review the records, and make a conclusion regarding the level of potential impacts of the project on historic built resources. The commenter also states that if there are no changes to historic properties within the Area of Potential Effects (APE), the project should have a No Historic Properties Affected finding.

**Response 3-1:**

NapaSan appreciates Caltrans comments regarding historic built resources. Effects on the historic built environment were addressed in the *Section 3.5, Cultural Resources* of the IS/MND. A finding of No Historic Properties Affected appears appropriate for the built environment as the project will have No Effect, but an overall Finding of No Adverse

Effect is appropriate due to the archaeological review. These findings are still subject to review and discussion by the USACE and the SHPO.

**Comment 3-2:**

The commenter requests the submittal of plot plans specifying where the existing or bypass sewer lines are located with respect to the SR-12/29 bridge as well as any other local agency bridges.

**Response 3-2:**

As stated in IS/MND *Section 2.6, Right-of Ways / Permits / Approvals*, the proposed bypass pipelines may encroach upon Caltrans right-of-way (ROW) in two locations: (1) where the existing trunk sewer crosses under Highway 12/29; and (2) where the bypass alignment may cross under Highway 12/29 on Napa Valley Corporate Drive, if that bypass alignment were to be selected. Each of these Caltrans ROW crossings would pass beneath elevated structures and no excavation would occur within Caltrans ROW. So, it is anticipated that a notification to Caltrans of the trunk sewer rehabilitation as a means of system maintenance would be sufficient and that an Encroachment Permit would not be required. A copy of the project plot plans will be provided to Caltrans for review if it is determined that an Encroachment Permit is needed.

**Comment 3-3:**

The commenter notes that any increase in runoff that drains to the Caltrans ROW should be metered to pre-construction levels.

**Response 3-3:**

As noted in the IS/MND *Section 3.10, Hydrology and Water Quality*, the Project would create a negligible increase in impervious surface area due to the addition of one new manhole, and therefore would not change the rate or amount of surface runoff to the Caltrans ROW, and the temporary bypass pipelines and pumps would be placed above ground for a period of up to seven months during the dry season. No increase in storm water runoff to the Caltrans ROW would be expected.

**Comment 3-4:**

The commenter notes that NapaSan, as the lead agency, is responsible for all project mitigation, including any needed improvements to the State Transportation Network, and that implementation, funding, scheduling and monitoring of the mitigation measures should be discussed.

**Response 3-4:**

Section 6 of this Final IS/MND contains the proposed Mitigation Monitoring and Reporting Program (MMRP) that specifies the implementation responsibilities, scheduling and monitoring of all Project mitigation measures. The Project does not require or include any mitigation measures or improvements to the State Transportation Network. Therefore, discussion of such measures or improvements is not needed.

**Comment 3-5:**

The commenter states that any permanent work or temporary traffic control that encroaches onto the Caltrans ROW requires a Caltrans-issued encroachment permit, and if Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act Standards after project completion. The commenter also provides the requirements for submitting an application for an encroachment permit.

**Response 3-5:**

As discussed in Response to Comment 3-2, a Caltrans encroachment permit may not be required because proposed bypass pipelines would pass beneath elevated structures and no excavation would occur within the Caltrans ROW. If it is determined that an encroachment permit is required, NapaSan will submit an application for an encroachment permit, including all submittal requirements.