



Meeting: **Joint Reservoir Committee & Authority Board**  
**Agenda Item 2.1**

**November 17, 2023**

Subject: **Consideration of Project Approval and Related CEQA Actions**

---

**Requested Action:**

Reservoir Committee considers recommendation to the Authority Board and Authority Board considers approval of proposed Board Resolution No.2023-02 providing for the following actions:

1. Certify the Final Environmental Impact Report for the Sites Reservoir Project under the California Environmental Quality Act (CEQA);
2. Adopt CEQA Findings;
3. Adopt the Statement of Overriding Considerations;
4. Adopt the Mitigation, Monitoring and Reporting Program;
5. Approve the Sites Reservoir Project as described in the CEQA Findings;
6. Direct the Executive Director to File a Notice of Determination and pay all related fees and authorize the Executive Director to certify the CEQA record of proceedings.

**Detailed Description/Background:**

The Sites Project Authority (Authority), as lead agency under the CEQA, has completed the Final Environmental Impact Report (Final EIR or EIR) for the Sites Reservoir Project (Project). The Authority prepared the EIR jointly as a Final EIR/Environmental Impact Statement (EIS) with the United States Department of the Interior, Bureau of Reclamation (Reclamation), which is the lead agency for the Project under the National Environmental Policy Act (NEPA). The joint document was released on November 2, 2023, on both the Authority's and Reclamation's websites and was also provided to the California State Clearinghouse. Authority staff provided notice of the availability of the Final EIR to public agencies that commented on the Revised Draft EIR at least 10 days prior to this Board meeting. The federal Notice of Availability of the Final EIS was also published in the Federal Register on November 3, 2023.

The release of the Final EIR/EIS is the culmination of over 20 years of environmental analysis for the Sites Reservoir Project. The EIR process was originally initiated by the California Department of Water Resources (DWR) in November 2001 with the publication of a notice of preparation (NOP). The Authority assumed the role of CEQA lead agency and issued a supplemental NOP on February 2, 2017. A Draft EIR/EIS was released for public review and comment on August 14, 2017. The Draft EIR/EIS evaluated four surface water reservoir size

and conveyance alternatives, ranging from 1.3 to 1.8 million-acre feet in reservoir size and included a new Delevan Pipeline to convey water to and from the Sacramento River.

In October 2019, the Authority initiated a value planning process to identify and evaluate additional alternatives that could make the Project more affordable for the Sites Storage Partners while also reducing environmental impacts and addressing a number of concerns raised in comments received on the Draft EIR. The value planning process resulted in the identification of three new alternatives (with one of the alternatives consisting of two variants) with reservoir sizes ranging from 1.3 to 1.5 million-acre feet, utilization of existing conveyance facilities to the extent practical, and eliminating the Delevan Pipeline. On November 12, 2021, the Authority and Reclamation released a Revised Draft EIR/Supplemental Draft EIR (RDEIR/SDEIS) for public review and comment. The RDEIR/SDEIS completely revised and recirculated the analysis included in the earlier Draft EIR/EIS to reflect changes to the Project, including more restrictive Sacramento River diversions. During the public review period on the RDEIR/SDEIS, the Authority received approximately 1,000 discrete comments in 101 unique communications, including emails, letters, form letters, oral testimony, and a petition.

The Final EIR/EIS was prepared in accordance with CEQA and the CEQA Guidelines.

Throughout the environmental analysis and documentation process, the Authority has undertaken extensive efforts to engage tribes, agencies, non-governmental organizations, and the public. These efforts are described below.

- Tribal coordination has included outreach to Tribal governments with traditional and cultural affiliation with the geographic area of the Project, as required under Assembly Bill 52 (AB 52) and CEQA, as well as expanded outreach to Tribes outside of the geographic area of the Project that potentially could be affected by changes in stream flows. AB 52 consultation has been conducted with representatives of the Yocha Dehe Wintun Nation and the Cachil Dehe Band of Wintun Indians (Colusa Community Indian Council). The Authority has also engaged in discussions with the Paskenta Band of Nomlaki Indians. To further engage the Tribes, a Tribal Government Working Group and possible Memorandum of Agreement have been proposed. The Authority has completed compliance with the requirements of AB 52 for certifying the Final EIR/EIS and for approving the Project. The Authority is nevertheless committed to continuing to work cooperatively with Tribal governments throughout the life of the Project to better understand and respectfully incorporate the Tribes from their perspectives.

- The Authority established the Local Community Working Group on June 17, 2022, with the intent to represent a broad cross-section of local agencies and community organizations in the Colusa, Glenn, and Yolo county areas. The Authority staff continue one-on-one and small group discussions with various local and regional agencies and landowners in and around the Project area.
- Non-governmental organizations (NGOs) outreach has also been conducted, including numerous small group meetings and one-on-one discussions. Topics of discussion covered the areas these groups expressed concerns about, including the approach to the Sites water right application, operations modeling and diversion criteria, water quality, fisheries, and Trinity River issues. The Sites team has been open and transparent with information and analysis.
- To ensure that the EIR/EIS addresses CEQA responsible and NEPA cooperating agency issues of concern, local, state, and federal agencies were asked to review and provide input on the administrative draft versions of the RDEIR/SDEIS and Final EIR/EIS chapters, appendices, and responses to comments.

### **Actions and Implications**

Authority staff have provided ongoing briefings to the Board, Reservoir Committee, and work groups on the approach to the analysis and preparation of the Final EIR. Attachment A includes a list of the eight public briefings to the Joint Reservoir and Authority Board that have been provided since the beginning of 2023. Topics have included the format and technical content of the Final EIR as well as the CEQA requirements and process in preparation for a decision on the Project. In addition to the opportunities for public input above, the public also had an opportunity to make comments to the Board at each of these briefings. Board input was received and considered in preparing the final documents.

As discussed previously at the September Board meeting, adoption of the attached Resolution encompasses the following actions:

1. Certification of the Final EIR – In this action, the Authority is certifying that the Final EIR has been completed in compliance with CEQA, that the Board has reviewed and considered the information contained in the Final EIR prior to deciding on the Project, and that the Final EIR reflects the Authority’s independent judgement and analysis.
2. Adoption of the CEQA Findings – In this action, the Authority is making findings that address the environmental review process and contents of

the Final EIR; the Project's significant environmental effects; the mitigation measures presented in the Final EIR/EIS to address these impacts; the alternatives considered and the reasons for rejecting alternatives; and the decision on Project approval.

3. Adoption of the Mitigation Monitoring and Reporting Program (MMRP) – In this action, the Authority is adopting the MMRP and committing to implement all of the mitigation measures in the MMRP as conditions of Project approval. In this action, the Authority is also making a binding commitment to the Governor to implement the mitigation measures related to disadvantaged communities as called for in Senate Bill 149 (SB 149). The mitigation measures reflected in the MMRP are the same as the mitigation measures described in the Final EIR.
4. Adoption of the Statement of Overriding Considerations – In this action, the Authority is adopting findings that explain the reasons for why the various social, economic, environmental, and other benefits of the Project outweigh the significant and unavoidable effects of the Project.
5. Project Approval – In this action, the Authority is deciding whether, and if so how, to approve and carry out the Project. The Project as defined for approval in the attached findings consists of Alternative 3 as evaluated in the Final EIR with the Terminal Regulating Reservoir (“TRR”) West location. If the Project is approved, the Authority would then be able to carry out all of the Project activities, such as purchasing land, construction of the Project features, and operating the Project (subject to other applicable permitting requirements that may apply to Project activities). This action cannot proceed without first completing items 1 through 4 above.
6. Direction to the Executive Director – If the Project is approved, in this action, the Authority is directing the Executive Director to file the Notice of Determination pursuant to CEQA and pay all associated fees, and is authorizing the Executive Director to certify the record of proceedings consistent with CEQA and SB 149. Certification of the record of proceedings must be completed under SB 149 within 5 days of Project approval. A majority of the record of proceedings is on the Sites website at <https://sitesproject.org/ceqa-record-of-proceeding/>. The remainder will be placed there following the actions today.

The Reservoir Committee, in and of itself, is not taking an action, but rather is making a recommendation for action on the Project by the Authority Board. In addition, the individual Reservoir Committee members are making a recommendation for action on the Project by the Authority Board based on their role as Committee members. An individual Reservoir Committee member vote is

not binding on the member's respective agency with respect to any decision or action on the Project by that agency.

The Authority Board would be voting to take an action that would be binding on the Sites Project Authority. The individual Authority Board members are voting in their role as Authority Board members and the vote is not binding on the member's respective agency with respect to any decision or action on the Project by that agency.

### **Senate Bill 149 Status**

On November 6, 2023, California Governor Gavin Newsom certified the Sites Reservoir Project as an infrastructure project qualifying for judicial streamlining under SB 149. SB 149 requires the Authority to make certain public notices within 10 days of the certification. This notification was fully completed by November 16 with the required notice posted in 10 newspapers and postcards mailed to landowners with the Project area and the notice has been posted on the Sites website at <https://sitesproject.org/environmental-review/>.

Under SB 149, the Authority must make a binding commitment to the Governor to implement specified mitigation measures related to disadvantaged communities. This will be accomplished by the Authority adopting the findings and MMRP in item 3 above. Under SB 149, the Authority must also certify the record of proceedings within 5 days of approval of the Project. This will be accomplished by delegating this responsibility to the Executive Director.

### **Comments Received After the Release of the Final EIR/EIS**

As of the posting of this staff report, the Authority has received two recent letters relevant to the Project's CEQA analysis. One was received from the Cachil Dehe Band of Wintun Indians (Colusa Community Indian Council) and one from the County of Yolo. The two letters and responses to the substantive environmental issues in each are included in Attachment B. These two letters raise concerns that have already been addressed in the Final EIR or the CEQA record of proceedings.

### **Minor Corrections to the Final EIR**

Staff has provided a short errata in Attachment C to make minor corrections to the Final EIR/EIS. The corrections are in Chapter 23, Tribal Cultural Resources and correct the record that the Authority did not send letters to close out the AB 52 process. Corrections were also made in Volume 3 to move three local agencies into the local agency table as opposed to the non-governmental organization and individual tables. These minor corrections do not change the analysis in the Final EIR/EIS, do not change any of the findings or conclusions of

the Final EIR, and do not constitute “significant new information” pursuant to CEQA Guidelines Section 15088.5.

**Prior Authority Board Action:**

August 2023: Received a status briefing on the Final EIR/EIS, Public release process and development of the CEQA administrative record.

July 2023: Requested Certification as an SB149 Eligible Infrastructure Project.

July 2023: Received a status briefing on the Final EIR/EIS, NEPA Process and ROD.

June & May 2023: Received a status briefing on the Final EIR/EIS, Part 3 (continued).

April 2023: Received a status briefing on the Final EIR/EIS, Part 3.

March 2023: Received a status briefing on the Final EIR/EIS, Part 2.

February 2023: Received a status briefing on the Final EIR/EIS, Part 1.

**Fiscal Impact/Funding Source:** The preparation of the Final EIR/EIS, including the record of proceedings, can be completed within the Amendment 3 Work Plan total budget.

**Staff Contact:** Ali Forsythe

**Primary Service Providers:** ICF, HDR, Perkins Coie

**Attachments:**

Board Resolution (which includes the Findings along with Exhibit A and Exhibit B to the Findings)

Attachment A – 2013 EIR Briefings

Attachment B – Comments Received After the Release of the Final EIR/EIS as of Posting of this Staff Report and Sites Responses

Attachment C – Sites Reservoir Final EIR/EIS Errata

## **Attachment A**

### **List of 2023 Joint Reservoir Committee and Authority Board Public Briefings on the Final EIR/EIS**

**February 17, 2023** - Review of content and format of the final document, an overview of project refinements to be reflected in the final documents, and an overview of the updates to the modeling

**March 17, 2023** - Review of master responses prepared in response to key comments received on the Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) and provide an overview of the ongoing public and local agency outreach and Tribal coordination and consultation efforts.

**April 22, 2023** - An overview of any refinements to impacts and mitigation measures along with an overview of the Mitigation Monitoring and Reporting Program.

**May 19, 2023** – An overview of the California Environmental Quality Act (CEQA) requirements to adopt a Statement of Overriding Considerations as part of the decision process and an initial review of the analysis.

**June 16, 2023** – An overview of the CEQA requirements to adopt Findings as part of the decision process, a summary of efforts recently undertaken to bolster the water quality analysis, and a review of the tribal cultural resources section along with a status update on the ongoing tribal consultation.

**July 21, 2023** - An overview of Reclamation’s ongoing review of the Final EIR/EIS and requirements for compliance with the National Environmental Policy Act (NEPA), including the Record of Decision (ROD).

**August 18, 2023** - An overview of the Final EIR/EIS public release process and associated outreach materials along with the development of the CEQA administrative record.

**September 22, 2023** – An overview of the decision process and associated CEQA actions.

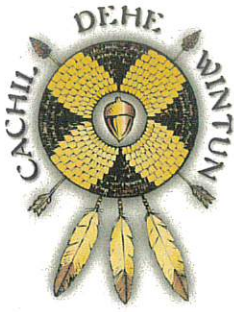
In addition to the briefings above, a number of briefings were held in 2022 as the Final EIR/EIS was under preparation. Similar briefings were also held at the Environmental Planning and Permitting Working Group, which is also open to the public.

## **Cachil Dehe Band of Wintun Indians Materials**

The following materials are provided in the following order:

1. October 27, 2023 Materials from the Colusa Indian Community Council, Cachil Dehe Band of Wintun Indians
2. Memo to File from Alicia Forsythe, Environmental Planning and Permitting Manager regarding the Tribal Cultural Resource Information Provided October 27, 2023, by the Cachil Dehe Band of Wintun Indians of the Colusa Indian Community Council
3. Sites Project Authority Letter Dated October 20, 2023 to The Honorable Chairman Wayne Mitchum Jr. for the Cachil Dehe Band of Wintun Indians of the Colusa Indian Community Council regarding Consultation under Assembly Bill 52 for the Sites Reservoir Project





# COLUSA INDIAN COMMUNITY COUNCIL CACHIL DEHE BAND OF WINTUN INDIANS

10/27/2023

## **Cachil Dehe Band of Wintun Indians of the Colusa Indian Community Council EIR Statement**

### **Statement for the EIR**

We are the people of the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community Council (CICC), and we have—since time immemorial—dwelled and lived with and in the landscape where the Sites Project Authority seeks to impose and entrench the Sites Reservoir Project. We, the people of CICC, are intimately and indelibly a part of this landscape. When we speak of land, we do not simply speak of the surface of the ground, but of water and air, of plants and animals, of geographical features and hydrological bodies, of what is below and what is above. The land/waterscape of the proposed Sites Reservoir and the diversity of life that it sustains are our family, our kin, and our material heritage and inheritance from our ancestors. It is has been and continues to be our deep obligation and responsibility to protect, preserve, and steward this life and the places and land/waterscapes fundamental to our traditions, knowledges, practices, and identities as a unique Tribe and people. We accept these deep obligations and responsibilities so that our forthcoming generations may know our sacred geographies, environments, and non-human and more-than-human kin in the future the same way our people have known and honored them in the past, as we know and honor them today.

Rather than accounting for this deep time relationship we have shared with the environment of the proposed Sites Reservoir Project, the Environmental Impact Report (EIR) prepared by the Sites Project Authority as part of California Environmental Quality Act (CEQA) and Assembly 52 (AB 52) review and compliance essentially works to exclude and make us and all affiliated Native peoples invisible in the environmental setting of the proposed land/waterscape they seek to flood and destroy as if we do not—and never did—exist. As part of the preparation of the EIR, it has been the Sites Project Authority's responsibility to bring to the Board of Directors and all decision makers the best available information. They have not. The proposed Sites Reservoir Project will flood and destroy essential parts of our land/waterscape, significantly impact unique and essential plant gathering areas, sacred sites, and ancestral burial locations, heavily harm and damage the integrity of the environmental setting and human environment relationships that define our traditional use areas, and irrevocably undermine our capacities for viable futures as a Tribe and people. We will never be able to visit the plants, animals, or waters of this area again if the Project is approved, because it will inundate ancestral remains, and therefore become imbalanced, polluted, and contaminated as taught in and by our traditional knowledge and science systems.

The Sites Project Authority has failed to reasonably, meaningfully, and in good faith fulfill its environmental review responsibilities under CEQA and its AB 52 amendments in accounting for our Native environmental settings and relationships to this place and land/waterscape. The Sites Project Authority has also used unqualified staff—as clearly demonstrated by the complete lack of consideration

for the First Peoples of the lands and waters of the proposed Project area—and continue to make claims that they are using the best available information when they neglected to respond to Tribal concerns and offers of collaboration to help fulfill the purpose of CEQA and AB 52. Moreover, the Sites Project Authority Executive Director, Jerry Brown, and Environmental Planning and Permitting Manager, Alicia Forsythe, have repeatedly and publicly presented the position that, because the No Project Alternative does not carry out the Sites Project Authority's mission and objectives for the proposed Project, it is not a viable action alternative. While the Sites Project Authority makes repeated claims that this stance regarding the No Project Alternative does not amount to a failure by them to undertake the necessary analysis and abide by the procedural processes required by CEQA and its AB 52 additions, this claim is demonstrably specious. In this stance, the Sites Project Authority, as the lead agency, has predetermined that regardless of the intensity, breadth, and destruction of the significant impacts that will occur to our tribal cultural resources (TCRs), and thus the environment, the proposed Site Reservoir Project will go through. This stance is pre-decisional and a clear and blatant violation of the procedures that guide CEQA.

We, the people of CICC, therefore ask that the Sites Project Authority Board of Directors and other decision makers closely and carefully consider not only what the proposed Sites Reservoir Project will be building, but what it will be irreversibly destroying. PRC 21084.1 states that “[a] project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment,” and PRC 21084.2 clarifies that, “[a] project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.” The No Project Alternative, which assumes the Project will not be implemented, is required to consider what would be reasonably expected to occur in the foreseeable future if the Project is not approved. For the people of CICC, only the No Project Alternative will permit our people to continue fulfilling our stewardship obligations and traditional religious and cultural practices that indelibly depend on the integrity and presence of our TCRs that have existed and sustained us since the time of Creation.

We bring to the attention of the Board of Directors and other decision makers that on June 18, 2019, California Governor Gavin Newsom signed Executive Order (EO) N-15-19, presenting the first formal State governmental recognition “that the State [of California] historically sanctioned over a century of depredations and prejudicial policies against California Native Americans.” In its preamble, the State offers acknowledgement that:

[I]n the early decades of California's statehood, the relationship between the State of California and California Native Americans was fraught with violence, exploitation, dispossession and the attempted destruction of tribal communities, as summed up by California's first Governor, Peter Burnett, in his 1851 address to the Legislature: “[t]hat a war of extermination will continue to be waged between the two races until the Indian race becomes extinct must be expected”; ....

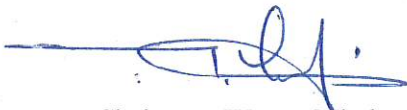
.... [T]he State of California's laws and policies discriminating against Native Americans and denying the existence of tribal government powers persisted well into the twentieth century....

When appropriate levels of inclusion of the rights, opportunities, and special expertise of the Native peoples are not readily and affirmatively afforded as part of CEQA and AB 52 compliance processes and in considerations of adverse effects on and significant environmental impacts to our TCRs—as they have not been by the Sites Project Authority Executive Director, Environmental Planning and Permitting

Manager, and the consultants at HDR and ICF who have worked as Sites Authority Project advocates and representatives rather than impartial preparers of the EIR—these depredations and their prejudicial, marginalizing, alienating, and discriminatory practices are regenerated and reproduced against CICC well into the twenty-first century.

As a federally recognized Native American tribe, each CICC member holds dual status as citizens of both CICC, a sovereign Indigenous Nation, and the United States of America and its State of California. This dual status means that CICC concerns must be approached, consulted on, and considered attentively, considerately, and with respect for Tribal cultural sensitivity and information sharing protocols. CICC is not a bureaucratic check-box and our cultural information is not a matter to be inattentively plugged into and subsumed under predesignated categories of settler colonial governance. How the Sites Project Authority has claimed adequate levels of outreach and consultation with CICC has been unreasonable and in bad faith, and has neither fostered transparency, developed pathways for trust, nor built reasonable and good faith opportunities to account for and take a hard look at significant impacts to our TCRs, as is required under CEQA and AB 52 review.

The area of the proposed Project is part of a historic district and defined cultural landscape TCR that—according to the special expertise of CICC—are preliminarily eligible, respectively, for listing on the National Register of Historic Places (NRHP) under Criteria A and D and the California Register of Historical Resources (CRHR) under Criteria 1 and 4 and which together serve as the last place left in our traditional use area and traditional cultural land/waterscape to provide our people unique capacities and opportunities to continue to be the people of CICC. If the Sites Reservoir Project is approved, this will all be irrevocably damaged and destroyed. The Sites Project Authority Board of Directors and other decision makers have it within their decision making power to stop this proposed Project and the destructive swift and slow violence and social and environmental *in*justices it will impose on the people of CICC. So much has already been taken from CICC and other Native peoples of California, and the direct, indirect, and cumulative adverse effects, significant environmental impacts, and permanent damage that will be caused by the proposed Project will forever destroy the integrity, capacities, and sanctity of the lands and waters of the proposed Project area.



Chairman, Wayne Mitchum Jr.



Vice Chairwoman, Amanda Mitchum

# Response to Cachil Dehe Materials Dated October 27, 2023



---

**To:** File

**Date:** November 13, 2023

**From:** Alicia Forsythe, Environmental Planning and Permitting Manger

**Subject:** Tribal Cultural Resource Information Provided October 27, 2023, by the Cachil Dehe Band of Wintun Indians of the Colusa Indian Community Council.

---

A handwritten signature in black ink that reads "Alicia Forsythe".

This memorandum addresses tribal cultural resource information recently provided to the Sites Reservoir Authority (the “Authority”) by the Cachil Dehe Band of Wintun Indians of the Colusa Indian Community Council (“CICC”), a federally recognized Indian Tribe with a traditional and cultural affiliation to the geographic area of the proposed Sites Reservoir Project (the “Project”).

The Authority has, for several years, requested information from CICC regarding the potential for the Project to impact tribal cultural resources. The Authority’s consultation with CICC regarding the Project is discussed in the Sites Reservoir Project Final Environmental Impact Report/Environmental Impact Statement (“Final EIR/EIS”) at Table 23-2, and in greater detail in the Authority’s Technical Memorandum, “AB 52 Consultation and Additional Outreach to Tribes” (November 2023) and the Authority’s October 20, 2023, letter to CICC, both of which the Authority will include in its CEQA administrative record.

On October 27, 2023, CICC sent the Authority a letter along with a request that the contents of the letter be added, without edit, to the Authority’s CEQA administrative record. On November 9, 2023, CICC confirmed in writing that the materials that are part of the AB 52 consultation effort that are not otherwise specifically deemed confidential can be released to the public.

The Authority’s October 20, 2023 letter responds to the concerns raised by CICC and is included here as an attachment. This memorandum discusses the potential for a tribal cultural resource in the Project vicinity in more detail and includes consideration of the information provided in the CICC’s October 27, 2023 letter.

CICC’s October 27, 2023 letter included the following description of a potential tribal cultural resource in the Project vicinity:

The area of the proposed Project is part of a historic district and defined cultural landscape TCR that—according to the special expertise of CICC—are preliminarily eligible, respectively, for listing on the National Register of Historic Places (NRHP) under Criteria A and D and the California Register of Historical Resources (CRHR) under Criteria 1 and 4 which together serve as the last place left in our

traditional use area and traditional cultural land/waterscape to provide our people unique capacities and opportunities to continue to be the people of CICC. If the Sites Reservoir Project is approved, this will all be irrevocably damaged and destroyed.

CICC October 27, 2023, Letter, p.3.

As discussed in the Final EIR/EIS, a key source of information for the Authority's identification of tribal cultural resources and the analysis of the Project's potential impacts on these resources is the perspective of California Native American Tribes that are traditionally and culturally affiliated with the Project area. See Final EIR/EIS at 23-10. The Authority has considered the information provided by CICC in the October 27 letter as part of the Authority's evaluation of potential impacts to tribal cultural resources and as it weighs whether to approve the Project. The CICC letter discussing the resource will be included in the Authority's CEQA administrative record, per CICC's request.

As a result of the Authority's consultation with Tribes (including CICC), the Final EIR/EIS reflects the Authority's determination that tribal cultural resources are within and surrounding the Project footprint and will be significantly affected by the Project. See Final EIR/EIS at 23-17. Significant impacts on tribal cultural resources will include, among other impacts: the filling of Sites Reservoir, which would destroy or eliminate access to any resources potentially present in the inundation area (such as, but not limited to, gathering of plant resources and inundate Native American ancestral sites); and alteration of the landscape, which could disrupt cultural and spiritual practices. *Id.* The Final EIR/EIS identifies mitigation measures that could reduce some, but not all, impacts and concludes that Project construction and operation (under all alternatives) would have a significant and unavoidable impact on tribal cultural resources. See Final EIR/EIS at 23-21. All of the mitigation measures in the Final EIR/EIS are proposed for adoption as binding conditions of Project approval in the Mitigation and Monitoring Reporting Program for the Project. The CICC suggests not building the reservoir as an alternative which does not meet the Project objectives.

Based on the information provided by CICC, the Authority is not seeing anything in the CICC's materials that is new or different from anything previously evaluated and considers the potential historic district and defined cultural landscape CICC describes to be among the tribal cultural resources that have been analyzed and that will be impacted as a result of Project construction and operation as discussed in Chapter 23 of the Final EIR/EIS. The Authority will continue its outreach to and coordinate with CICC to gather additional information of requisite detail to evaluate eligibility of the resource for inclusion in the California Register of Historical Resources. While the Authority anticipates a significant and unavoidable impact to the resource CICC describes based on the analysis and findings presented in Chapter 23, the Authority is committed to utilize and implement all of the Final EIR/EIS tribal cultural resource mitigation measures in an effort to minimize or avoid those impacts to the extent feasible.

Specifically, Mitigation Measure TCR-1.1 gives the Authority flexibility to implement measures tailored to avoiding damaging effects on a particular resource, and taking into account the

tribal cultural values and meaning of the resource. See Final EIR/EIS at 23-21. The Authority will continue its outreach to and coordination with CICC regarding potential measures, including the Authority's proposal to fund the CICC direct cost to complete an ethnographic study of the Project area. Implementation of Mitigation Measures TCR-1.2, TCR-1.3, CUL-2.1, CUL-2.2, CUL-2.3 and CUL-2.4, as discussed in detail in Chapters 22 and 23 of the Final EIR/EIS, will also reduce impacts to the resource CICC describes to the extent the lands encompassed by the CICC resource contain human remains, cultural items and/or archaeological resources that contribute to the significance of the resource.



October 20, 2023

The Honorable Chairman Wayne Mitchum Jr.  
Colusa Indian Community Council  
Cachil Dehe Band of Wintun Indians  
3730 Highway 45  
Colusa, CA 95932

Sent via email

Subject: Consultation under Assembly Bill 52 for the Sites Reservoir Project

Dear Chairman Mitchum:

The Sites Project Authority greatly appreciates the opportunity to consult with the Cachil Dehe Band of Wintun Indians, a federally recognized Indian Tribe and sovereign government. We especially appreciate the time spent by members of your government, staff, and your consultant to engage with the Authority over the past several months and for taking the time to meet with us on October 2 to discuss the proposed Sites Reservoir Project. At our October 2 meeting, a detailed response to CICC's September 29, 2023, letter was requested. Attached to this letter are responses to the questions and concerns raised in your September 29, 2023, letter. Similar to our September 15, 2023 letter, the Authority is working to understand CICC's concerns and has organized this attachment in a way that we hope delineates and addresses each concern.

I realize you may not agree with our responses and that we may have a difference of opinion on some of these items. I respect your viewpoint and take your concerns seriously and want to continue working with you to identify actionable items that can be implemented to address your concerns, build a working relationship with the Tribe that continues beyond the present efforts, and chart a path forward that honors and respects the Tribe from your perspective. As I mentioned at the end of our October 2 meeting, we are trying hard to understand and constructively engage with you and I am personally committed to this. To this end, I respectfully request time to walk through our responses and discuss them with you and CICC government's leadership, address the materials that we left behind at our September 29 meeting, and discuss any other topics of interest to you.



P.O. Box 517  
Maxwell, CA 95955  
530.438.2309

In addition, AB 52 and the California Public Resources Code Section 21082.3(c)(1) calls for confidentiality in the AB 52 process and requires the Authority to obtain written consent from CICC prior to the public disclosure of information submitted by the Tribe during the environmental review process. We are wrapping up our Final Environmental Impact Report (EIR) and expect to ask our Board of Directors to consider certification of the Final EIR and adoption of the Project at its November 17, 2023 meeting. We would like to discuss with you what, if any, of our discussions and letter interactions should be disclosed in materials available to the public. While at times, CICC has stated that information should be considered and included in our Final EIR there are also times when CICC has requested confidentiality. We would like to seek clarity to ensure we understand and are able to honor your expectations.

We deeply appreciate CICC's willingness to continue to engage and bring these concerns to our attention and your willingness to work together going forward. As noted above, we would like to meet with you to discuss our responses and next steps and would like to schedule a meeting very soon in light of our schedule to close out the CEQA process. In the meantime, if there are any questions on this letter in the intervening time, please contact me at [jbrown@sitesproject.org](mailto:jbrown@sitesproject.org) or 925-260-7417 or Alicia Forsythe, Environmental Planning and Permitting Manager, at [aforsythe@sitesproject.org](mailto:aforsythe@sitesproject.org) or 916-880-0676.

Sincerely,

Jerry Brown  
Executive Director

Enclosures:

- Attachment A – Sites Project Authority's Responses to Detailed Concerns in the Colusa Indian Community Council's September 29, 2023 Letter
- Attachment B – Emails between Mrs. Alicia Forsythe and Mrs. Monica Ruth Regarding April 18, 2023 Consultation Meeting
- Attachment C – Summary of Proposed Commitments by the Sites Project Authority to the Colusa Indian Community Council







**Attachment A**  
**Sites Project Authority's Responses to Detailed Concerns in the**  
**Colusa Indian Community Council's September 29, 2023 Materials**  
**October 20, 2023**

Below are responses from the Sites Project Authority (Authority) to the concerns expressed in the letter dated September 29, 2023 from the Cachil Dehe Band of Wintun Indians of the Colusa Indian Community Council (CICC), a federally recognized Indian Tribe and sovereign nation. As the Authority expressed in its September 15, 2023 letter, the Authority has worked to understand CICC's concerns and has organized this attachment in a way that we hope identifies and addresses each concern. Where appropriate, we have used the same headings from our September 15 letter and have added a few additional headings to address expanded topics. We hope that you accept these responses in the spirit of collaborative dialogue and toward finding a joint path forward that bridges our differences and is respectful of your needs and concerns.

**AB 52 Consultation for the Project**

In the May 3 and September 29 letters and in all of our recent meetings, CICC expressed concerns that Assembly Bill (AB) 52 consultation is overdue for the Project and that there has been an absence of reasonable and good faith consultation. In our September 15 response letter, we provided a timeline of the AB 52 consultation efforts for the Project. As identified in the timeline, CICC requested to consult on the Project in 2017 and reconfirmed that request in December 2020. The Authority sent information to CICC on multiple occasions, including in March 2019, August 2019, October 2020, March 2021, December 2021, and January 2022, to solicit feedback on the Project including CICC's knowledge and concerns related to tribal cultural resources and the mitigation measures proposed as part of the Project. The Authority received no response from CICC aside from confirmation of receipt of the materials and to request references. Wanting to further engage tribes in the Project and thinking about mechanisms for lasting engagement throughout the life of the Project, the Authority proposed a Tribal Working Group in a letter to CICC in January 2023. This January 2023 letter ultimately led to the April 18, 2023 meeting with the Authority and CICC and our current efforts.

AB 52 embodies the intent of the Legislature to "ensure that local and tribal governments, public agencies, and project proponents have information available, early in the California Environmental Quality Act environmental review process, for purposes of identifying and addressing potential adverse impacts to tribal cultural resources and to reduce the potential for delay and conflicts in the environmental review process." AB 52 § 1(a)(7). The prescribed



timelines for AB 52 consultation further underscore this intent to generate substantive information and discussion early in the California Environmental Quality Act (CEQA) process. Specifically, under AB 52, the lead agency is to formally notify tribes with traditional and cultural affiliation with a project area early in the project timeframe and the tribe is to respond within 30 days of that notification identifying if it would like to engage in consultation. Cal. Pub. Res. Code § 21080.3.

Although CICC timely responded that it would like to engage in consultation, CICC did not respond to the Authority regarding materials sent by the Authority to CICC from March 2019 to the end of calendar year 2022 other than to confirm receipt and to request references (which were provided by the Authority). CICC’s September 29 letter states “the Sites Project Authority cannot claim with reasonableness or good faith with its over four months-long delay in response [to CICC’s May 3 letter] that it has conducted meaningful AB52 consultation . . .”. We respectfully disagree as the Authority did seek to engage CICC on multiple occasions for more than three and a half years from 2019 through 2022 yet CICC did not respond to the Authority.

California Public Resources Code Section 21080.3.1(b) identifies that “for the purposes of this section . . . ‘consultation’ shall have the same meaning as provided in Section 65352.4 of the Government Code.” Section 65352.4 of the Government Code states that:

“consultation” means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.

California Public Resources Code Section 21080.3.2.(a) further states that:

As a part of the consultation pursuant to Section 21080.3.1, the parties may propose mitigation measures, including, but not limited to, those recommended in Section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project’s impacts on



the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommended to the lead agency.

Throughout the consultation process, the Authority has sought feedback from CICC on the Project, Project alternatives, the significance of tribal cultural resources, and the significance of the Project’s impacts on tribal cultural resources, along with mitigation measures to reduce these impacts. The Authority’s March 2019 materials included copies of cultural resources reports prepared as of that date and reference materials; the August 2019 materials included the remaining reference material requested; the October 2020 discussion and material included an updated Project description, GIS data for cultural resources, and a draft archeological report; the March 2021 materials included a revised preliminary Project description, including the range of alternatives being considered for the Project; the December 2021 materials included a link to the Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (Revised Draft EIR/Supplemental Draft EIS); and the January 2022 materials included the confidential cultural resources report that is an appendix to the Revised Draft EIR/Supplemental Draft EIS.

The California Office of Planning and Research’s (OPR) June 2017 Technical Advisory on AB 52 and Tribal Cultural Resources in CEQA states that consultation “is a process in which *both* the *tribe* and *local government* invest time and effort into seeking a mutually agreeable resolution for the purpose of preserving or mitigating impacts to a cultural place, where feasible.”<sup>1</sup> (Emphasis added.) The Authority has been committed to the principles set forth in AB 52 and has reached out to CICC numerous times over the years to seek feedback and engage in consultation efforts. Over the last six months of this process, the Authority has acted in good faith with reasonable efforts to understand CICC’s concerns with respect to the CICC historic district and defined traditional cultural landscape but, as discussed below, the Authority lacks the information necessary to evaluate this resource and come to a mutual agreement.

### **Project’s California Environmental Quality Act (CEQA) Process**

CICC’s September 29 letter expresses concern that the Authority’s mission prevents it from preparing an impartial EIR analysis. The lead agency for a CEQA document is “the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment.” Cal. Pub. Res. Code § 21067. Inherent

---

<sup>1</sup> Available here: [https://opr.ca.gov/ceqa/docs/20200224-AB\\_52\\_Technical\\_Advisory\\_Feb\\_2020.pdf](https://opr.ca.gov/ceqa/docs/20200224-AB_52_Technical_Advisory_Feb_2020.pdf)



to CEQA is that the agency carrying out the project is the agency that is preparing the environmental document. As stated on OPR’s website<sup>2</sup>:

CEQA requires public agencies to “look before they leap” and consider the environmental consequences of their discretionary actions. CEQA is intended to inform government decisionmakers and the public about the potential environmental effects of proposed activities and to prevent significant, avoidable environmental damage.

CEQA requires a consideration and disclosure of environmental effects of a discretionary agency action to inform decisionmakers and the public. The CEQA statute and CEQA Guidelines set forth an extensive procedural framework for how a lead agency is to complete the CEQA process to ensure that a project’s impacts are adequately analyzed, considered and disclosed.

CEQA requires the consideration and discussion of alternatives to a proposed project, including a no project alternative. Cal. Pub. Res. Code § 15126.6. An EIR is to “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project.” *Id.* An EIR shall also include a no project alternative. California Public Resources Code Section 15126.6 (e)(1) states that “the purpose of describing and analyzing a no project alternative is to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.” As the no project alternative does not carry out the proposed project and thus, presumably does not meet the project’s basic objectives, it is by definition, not a viable action alternative. The Authority’s stance regarding the no project alternative does not amount to a failure by the Authority to undertake the analysis and undertake the procedural process required by CEQA.

At our April 18 and June 15 meetings, CICC stated that it would like to include information in the Final EIR/EIS for the Project. At both the April 18 and June 15 meetings, we understood CICC to say that this information would be in the form of a statement from the Tribe that the Authority could not change in any way and would publish the statement in whole as exactly written by CICC. We stated that we would include information provided by the Tribe in the Final EIR/EIS and asked for this statement. At our October 2 meeting, and also referenced in CICC’s September 29 letter, CICC states that “CICC directly offered . . . to provide the Sites Project Authority with a statement of significance on our TCL/historic district and other contributing TCRs and the direct, indirect, and cumulative impacts that will occur to them

---

<sup>2</sup> Available here: <https://opr.ca.gov/ceqa/>



under all alternatives, including the No Project or Action alternative, to directly include in the EIR.” At our October 2 meeting, we reiterated that we would include such a statement provided by the Tribe in the Final EIR/EIS. As of the preparation of this letter, the Authority has not received this statement from CICC. Our Final EIR/EIS is in the final production stages and there is no longer time to include such a statement in the Final EIR/EIS. However, we will include such a statement provided by the Tribe in the Authority’s CEQA administrative record but will need to have this statement no later than close of business, October 27. If the statement is received after October 27 but before our Board meeting, which is scheduled for November 17, we will include it in the information the Board members receive.

### **CICC Historic District and Defined Traditional Cultural Landscape**

We appreciate the worldview of Native people in seeing the land and environment as intrinsically intertwined with human development and wellbeing. We also understand that natural resources can be considered cultural resources and should be assessed as such. We have a whole-hearted appreciation for this connection – it is a connection to a place, to a home, to a being that many people no longer have. We value the time that CICC has spent in helping us understand this connection.

Throughout our recent meetings and correspondence, CICC has identified that that it views the Project area as within a CICC historic district and defined traditional cultural landscape. At our recent meetings and correspondence, the Authority has requested additional information on the defined CICC historic district and defined traditional cultural landscape. We are not questioning CICC’s belief that there is a CICC historic district and defined traditional cultural landscape. We are asking these questions as we need to analyze these issues within a regulatory framework. .

California Public Resources Code Section 21074(b) defines a cultural landscape as a tribal cultural resource if it meets both the defining criteria of a tribal cultural resource and the landscape is geographically defined in terms of size and scope. California Public Resources Code Section 21074(a) defines a tribal cultural resource as either of the following:

- (1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
  - (A) Included or determined to be eligible for inclusion in the California Register of Historical Resources<sup>3</sup>.

---

<sup>3</sup> California Public Resources Code Section 5024.1 identifies the criteria to be eligible for the California Register of Historical Resources as follows:



(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1<sup>4</sup>.

- (2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

OPR’s June 2017 Technical Advisory on AB 52 and Tribal Cultural Resources in CEQA provides additional guidance on what constitutes substantial evidence in a lead agency determination of a tribal cultural resource as follows:

Evidence that may support such a finding could include elder testimony, oral history, tribal government archival information, testimony of a qualified archaeologist certified by the relevant tribe, testimony of an expert certified by the tribal government, official tribal government declarations or resolutions, formal statements from a certified Tribal Historic Preservation Officer, or historical/anthropological records.

Thus, state law directs the Authority to examine whether a historic district and defined traditional cultural landscape, geographically defined in terms of size and scope and is: (1) eligible for inclusion in the California Register of Historical Resources or a local register of historical resources; or (2) a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant. We have asked for more information on the CICC historic district and defined traditional cultural landscape as such information is necessary for us to meet the statutory obligations of AB 52 and the California Public Resources Code. We regret that CICC did not bring the presence of a historic district and

- 
- (b) The California Register shall include historical resources determined by the commission, according to procedures adopted by the commission, to be significant and to meet the criteria in subdivision (c).
- (c) A resource may be listed as an historical resource in the California Register if it meets any of the following National Register of Historic Places criteria:
- (1) Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage.
  - (2) Is associated with the lives of persons important in our past.
  - (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
  - (4) Has yielded, or may be likely to yield, information important in prehistory or history.

<sup>4</sup> California Public Resources Code Section 5020.1(k) defines “Local register of historical resources” as a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.



traditional cultural landscape to our attention earlier, so that we could have explored this with you more thoroughly.

At our October 2 meeting and in the September 29 CICC letter, extensive, but general information was provided on the connection between Native People and natural landscapes. The CICC September 29 document provides numerous citations to literature, to Deloria 1994, Watkins 2001, Pablo 2001, Casey 2013, Marker 2018, and others. None of this literature, however, addresses how the CICC historic district and defined traditional cultural landscape is eligible for inclusion in the California Register of Historical Resources or a local register, or provides substantial evidence for the Authority to make a determination of significance. CICC’s September 29 letter goes on to identify “the presence of intensively significant and unique plants and animal gathering and intergenerational teaching and learning areas, ancestral remains . . .”. This information is helpful but additional information is needed.

The Authority has offered to fund the CICC direct cost to complete an ethnographic study of the Project area. Such a study would assist CICC in developing the information and documentation necessary to both support a determination of eligibility for inclusion in the California Register of Historical Resources or a local register and would provide information important to informing the path forward for the Project. The avoidance, minimization, and mitigation measures in the Final EIR/EIS allow for the continued consideration of the CICC historic district and defined traditional cultural landscape.

### **Qualification and Competency of Individuals Working on the Project**

CICC’s September 29 letter reiterates portions of CICC’s May 3 letter and the Authority’s September 15 response regarding the request to include an ethnohistorian/ethnographer in the April 18 meeting. This topic was also discussed at length at the October 2 consultation meeting. While we include responses to concerns related to competency and qualifications of the professional staff working on the Project, we feel these are distractions from the real issues and do not help us build understanding and collaboration which we believe is our mutual goal.

Attached are the emails between Monica Ruth, the requested ethnohistorian/ethnographer and Alicia Forsythe, with the Authority. We stand by our statement that the Authority understood the request came from an individual and not from the CICC government. While the September 29 letter states that “CICC felt this was the best approach and did not directly reach out to request this ethnohistorian/ethnographer participation”, that lack of direct outreach from CICC led Mrs. Forsythe to believe that this individual was taking it upon themselves to be invited to the meeting. Mrs. Forsythe’s email on Monday, April 17 at 4:27 PM was clear “that the Tribe is always welcome to invite whomever they would like to the



meeting.” We hope that improved communication between the Authority and CICC will prevent such confusion in the future.

CICC’s September 29 letter states that the requested ethnohistorian/ethnographer is the “only person among the consulting firm preparing your EIR who can organize and provide you with the best possible information necessary to inform decisionmakers.” We would like to clarify that HDR is serving as the Authority’s Integration contractor. In this role, HDR ensures that activities are coordinated among all of the Authority’s contractors. HDR is not preparing the Project’s EIR. Rather, ICF is under contract to prepare the EIR.

CICC’s September 29 letter states that “it appears that the Sites Project Authority has refused to include the ethnohistorian/ethnographer specifically requested by CICC to ensure that you do not have the best possible information to provide to decisionmakers in the EIR.” As stated in our September 15 letter, we left open the possibility to including this individual in future efforts. Since the April 18, 2023 meeting, the Authority understands that this individual is or was in a personal relationship with your consultant, Dr. Giorgio Curti. The CICC September 29 letter seems to acknowledge this relationship. The Authority takes all matters related to conflict and ethics very seriously and has examined this specific matter thoroughly. Please understand that it is not the Authority’s desire to exclude CICC’s preferred consultants from working on this aspect of the Project. Instead, this is a matter between the employee and their employer. The Authority has been advised that the firm to whom this individual is employed has determined this individual is not authorized to work on this Project while under employment by this firm.

CICC’s September 29 letter also raises questions about the ethics of all Project consultants, stating that the Authority has a “legal and ethical responsibility to investigate [our] representatives and [our] consultants for their own conflicts of interest in reproducing and perpetuating the marginalization of CICC in and through the CEQA and AB 52 process, and in potential influences and pressures, monetary self-interest, and the purposeful elisions of information and qualified and competent personnel in the preparation of the EIR.” Again, the Authority takes all matters related to conflict and ethics very seriously. The Authority’s standard consultant contract includes financial disclosure requirements, conflict of interest disclosure requirements and a standard of conduct and performance requirement and these provisions are vigorously enforced, with any violations dealt with appropriately. Under the Authority’s standard contract, consulting firms can be terminated for not properly disclosing and addressing conflicts, not properly disclosing and addressing financial interests, and not adhering to a standard of conduct and performance that is generally accepted professional practices. In addition, Authority Agents, such as myself, Mrs. Alicia Forsythe, and Mr. Kevin Spesert, along with all of our Board members, our Reservoir Committee members, and other key Project personnel all file a Statement of Economic Interests with the California Fair





Political Practices Commission annually in our roles as public officials making or influencing governmental decisions.

CICC’s September 29 letter states in a number of places that the Authority is not employing “qualified and competent individuals in the preparation of EIR.” The qualifications of the individuals working on the EIR are clearly stated in Chapter 33, Consultation and Coordination and List of Preparers of the Revised Draft EIR/Supplemental Draft EIS. All of the individuals working on the EIR are qualified in their respective field and the majority have over 10 years of experience. CICC’s September 29 letter states “we remind the Sites Project Authority that continual assertions of using ‘the best available information’ are not demonstrations of such, and that CEQA calls for the use of qualified and competent individuals in the preparation of EIRs (Public Resources Code [PRC] 21000, 21001, and 21100; AEP 2023:234)”. We note that California Public Resources Code Sections 21000, 21001, and 21100 speak to the overall purpose of CEQA and do not support the statement that “CEQA calls for the use of qualified and competent individuals in the preparation of EIRs”. Regardless, the Authority’s consultants, both the firm and the primary individuals, are all competent and highly qualified.

### **Path Forward**

As mentioned above, we expect our Board of Directors to consider certification of the Final EIR and adoption of the Project at its November 17, 2023 meeting. Although we are completing the CEQA process, our desire and invitation to work together through future Project planning, implementation, and operations continues. We look forward to your partnership and collaboration in implementing the avoidance, minimization, and mitigation measures identified in the EIR. The Authority is committed to collaborating with CICC on future studies, such as elder interviews and the recordings of Tribal histories to document significant cultural places and events in the Project area and region; the identification of locations outside of the proposed reservoir footprint for the repatriation of Native American human remains and sacred objects, as desired by the Tribe; botanical studies that could contribute to biological mitigation requirements and the establishment of areas to be made accessible to tribes for the collection of plants; and the development of recreational trails and interpretive signage, among other items. Such actions could be memorialized in a legally binding Memorandum of Agreement, which we previously suggested to you. We also propose establishing a Tribal Working Group to address related topics, which may also be of interest to the other Tribe’s represented by attendees at our October 3 meeting. At our September 29 meeting, we presented the attached materials that include the mitigation measures from the Final EIR along with our proposal of additional commitments that the Authority is willing to implement in collaboration with CICC throughout the life of the Project. We look forward to further discussing these matters.



## Alicia Forsythe

---

**From:** Ruth, Monica <Monica.Ruth@hdrinc.com>  
**Sent:** Tuesday, April 18, 2023 7:57 AM  
**To:** Alicia Forsythe; Janis Offermann; Kevin Spesert; Laurie Warner Herson  
**Cc:** Risse, Danielle; Lloyd, John  
**Subject:** Re: upcoming meeting with Colusa

Hello Ali,

Thank you for letting me know.

Monica Ruth, M.A.  
Cultural Resource Specialist  
Ethnohistorian and Ethnographer  
HDR  
mobile: 916-813-3060  
Monica.Ruth@hdrinc.com

---

**From:** Alicia Forsythe <aforsythe@sitesproject.org>  
**Sent:** Monday, April 17, 2023, 4:27 PM  
**To:** Ruth, Monica <Monica.Ruth@hdrinc.com>; Janis Offermann <jaoffermann@montrose-env.com>; Kevin Spesert <kspesert@sitesproject.org>; Laurie Warner Herson <laurie.warner.herson@phenixenv.com>  
**Cc:** Risse, Danielle <danielle.risse@hdrinc.com>; Lloyd, John <John.Lloyd@hdrinc.com>  
**Subject:** RE: upcoming meeting with Colusa

**CAUTION:** [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Monica – I've thought a lot about this today and I am just not comfortable with you attending the meeting in a capacity that is representing / paid by the Authority. The Authority has an established team on this Project through HDR and Horizon that have been working with the Tribe for a number of years. The Project is extensive with multiple years of construction and long-term operations and we've been working out a strategy to complete consultation and partner with Tribes throughout the life of the Project.

Without an understand of all of this, it could be very confusing and feel conflicting for the Tribe if your representing the Authority but don't understand the Project or how the Authority is planning to partner with the Tribe into the future.

I do respect that the Tribe is always welcome to invite whomever they would like to the meeting. But I want to be clear that I am not comfortable with you attending representing or being paid by the Authority.

Ali

-----  
Alicia Forsythe | Environmental Planning and Permitting Manager | Sites Project Authority | 916.880.0676 | [aforsythe@sitesproject.org](mailto:aforsythe@sitesproject.org) | [www.SitesProject.org](http://www.SitesProject.org)

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

---

**From:** Ruth, Monica <Monica.Ruth@hdrinc.com>  
**Sent:** Monday, April 17, 2023 10:49 AM  
**To:** Alicia Forsythe <aforsythe@sitesproject.org>; Janis Offermann <jaoffermann@montrose-env.com>; Kevin Spesert <kspesert@sitesproject.org>; Laurie Warner Herson <laurie.warner.herson@phenixenv.com>  
**Cc:** Risse, Danielle <danielle.risse@hdrinc.com>; Lloyd, John <John.Lloyd@hdrinc.com>  
**Subject:** RE: upcoming meeting with Colusa

Hi Ali,

Thank you for reaching out; I appreciate your thoughtful response. My role would be to assist Sites Authority in achieving full compliance with all applicable relevant cultural resource/historic property laws and regulations, and in doing so, it would be most appropriate to utilize the contract between HDR and Sites. I will certainly reach out to Jay and Danielle for context, thank you for the recommendation. Would you have time to chat later today or tomorrow morning to touch base? I'm tied up between 3-4 today, but otherwise very available.

-Monica

**Monica Ruth**, M.A.  
M 916-813-3060

[hdrinc.com/follow-us](http://hdrinc.com/follow-us)

---

**From:** Alicia Forsythe <[aforsythe@sitesproject.org](mailto:aforsythe@sitesproject.org)>  
**Sent:** Friday, April 14, 2023 3:48 PM  
**To:** Ruth, Monica <[Monica.Ruth@hdrinc.com](mailto:Monica.Ruth@hdrinc.com)>; Janis Offermann <[jaoffermann@montrose-env.com](mailto:jaoffermann@montrose-env.com)>; Kevin Spesert <[kspesert@sitesproject.org](mailto:kspesert@sitesproject.org)>; Laurie Warner Herson <[laurie.warner.herson@phenixenv.com](mailto:laurie.warner.herson@phenixenv.com)>  
**Cc:** Risse, Danielle <[Danielle.Risse@hdrinc.com](mailto:Danielle.Risse@hdrinc.com)>; Lloyd, John <[John.Lloyd@hdrinc.com](mailto:John.Lloyd@hdrinc.com)>  
**Subject:** RE: upcoming meeting with Colusa

**CAUTION: [EXTERNAL]** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Monica – I am just getting to emails that came in while I was on vacation. I did reach out to Robert Boling on this as he's our principle in charge for HDR's work on the Sites Project.

I am fine with you attending the meeting. As CICC invited you, I assume you'll be attending as "representing" CICC.

The Sites Project Authority also has an extensive contract with HDR for services, including Tribal services. Danielle Risse and Jay Lloyd have been involved in the Project fairly extensively. You may want to catch up with them prior to the meeting for some context.

If you will be attending sort of representing both parties or representing Sites and billing to our contract with HDR, then I would want to chat prior to the meeting and bring you up to speed as to where we are and how we're looking to move forward.

I realize HDR has lots of different clients, so I am totally fine with you being there. I just would like to be clear on who you are "representing" when at the meeting so no one feels surprised.

I am excited to re-engage with the tribe and always appreciate team members that have relationships that help us all come together to help us understand and find solutions. I just want to be careful that we don't inadvertently get crosswise.

Ali

-----  
Alicia Forsythe | Environmental Planning and Permitting Manager | Sites Project Authority | 916.880.0676 | [aforsythe@sitesproject.org](mailto:aforsythe@sitesproject.org) | [www.SitesProject.org](http://www.SitesProject.org)

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

---

**From:** Ruth, Monica <[Monica.Ruth@hdrinc.com](mailto:Monica.Ruth@hdrinc.com)>

**Sent:** Monday, April 10, 2023 11:30 AM

**To:** Janis Offermann <[jaoffermann@montrose-env.com](mailto:jaoffermann@montrose-env.com)>; Alicia Forsythe <[aforsythe@sitesproject.org](mailto:aforsythe@sitesproject.org)>; Kevin Spesert <[kspesert@sitesproject.org](mailto:kspesert@sitesproject.org)>; Laurie Warner Herson <[laurie.warner.herson@phenixenv.com](mailto:laurie.warner.herson@phenixenv.com)>

**Subject:** RE: upcoming meeting with Colusa

Thank you, Janis. That is the gist of my conversation with CICC Executive Committee last week. I understand from our conversation this morning that the AB52 process for the overall project has been ongoing since 2017 (please correct me if I don't have that right) and in this time, several meetings took place prior to COVID. Since these meetings, there have been changes in the Tribe's Executive Committee as well as the Cultural Department. Because of my working relationship with CICC outside of the Sites Project, along with my experience with AB52 consultation, my participation in the upcoming meeting would be supportive of the required Tribal consultation process, particularly in respecting and honoring Tribal Sovereignty as it is the Tribe's request that I join the conversation.

I look forward to further conversation. Please let me know if I can provide any additional information.

Thank you,  
Monica

**Monica Ruth**, M.A. (*she/her*)

Ethnohistorian and Ethnographer

**HDR**

Mobile: 916-813-3060

[Monica.Ruth@hdrinc.com](mailto:Monica.Ruth@hdrinc.com)

[hdrinc.com/follow-us](http://hdrinc.com/follow-us)

---

**From:** Janis Offermann <[jaoffermann@montrose-env.com](mailto:jaoffermann@montrose-env.com)>

**Sent:** Monday, April 10, 2023 10:45 AM

**To:** Alicia Forsythe <[aforsythe@sitesproject.org](mailto:aforsythe@sitesproject.org)>; Kevin Spesert <[kspesert@sitesproject.org](mailto:kspesert@sitesproject.org)>; Laurie Warner Herson

<[laurie.warner.herson@phenixenv.com](mailto:laurie.warner.herson@phenixenv.com)>

Cc: Ruth, Monica <[Monica.Ruth@hdrinc.com](mailto:Monica.Ruth@hdrinc.com)>

Subject: upcoming meeting with Colusa

**CAUTION:** [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Ali

I believe you might still be on vacation, but I wanted to report to you a conversation that I had with Monica Ruth, of HDR and cc'd here, this morning.

Monica met with Colusa last week on an entirely different project and the topic of Sites Reservoir came up. Present at the meeting were Jennie Mitchum, the new cultural resources director, Rick Mithcum, Galina Mitchum, and Amanda Ragudo, vice-chairperson.

Monica noted that the conversation was not lengthy or in-depth since she is not really involved with the Sites Project; however, the tribe mentioned that they were concerned about traditional gathering places within the reservoir footprint (though Monica wasn't sure if they meant trails through the valley to resources on the other side), and "ancestors," which I am guessing would be cemeteries.

The tribe also mentioned our upcoming meeting and subsequently forwarded the meeting invitation to Monica so that she can attend. Apparently, they also offered to send an email to you to ask that Monica be included in that meeting. Monica can correct me if I am wrong, but she has met with this new team a couple of times on another project, and they are obviously comfortable talking with her.

Anyway, I wanted to bring this to your attention, so that you could decide if Monica should attend on the 18th.

thanks

janis

--

**Janis Offermann, M.A., RPA**

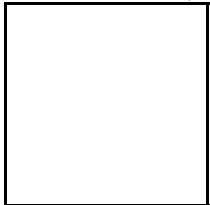
*Cultural Resources Manager*

M: 530.220.4918

[jaoffermann@montrose-env.com](mailto:jaoffermann@montrose-env.com)

**Please note new email address after April 1, 2023. I can still receive emails as [janis@horizonh2o.com](mailto:janis@horizonh2o.com); however, all of my outgoing emails to you will be from [jaoffermann@montrose-env.com](mailto:jaoffermann@montrose-env.com).**

Montrose Environmental  
1801 7th Street, Suite 100, Sacramento, CA 95811



CONFIDENTIALITY NOTICE: The contents of this email message and any attachments are intended solely for the addressee(s) and may contain confidential, proprietary and/or privileged information and may be legally protected from disclosure. If you are not the intended recipient of this message or their agent, or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and any attachments and the reply from your system. If you are not the intended recipient, you are hereby notified that any disclosure, use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.

**Summary of Proposed Commitments by the Sites Project Authority to the  
Colusa Indian Community Council  
October 2, 2023**

These commitments are proposed by Authority staff. The Authority's Board of Directors would have to approve the final set of commitments and approve execution of a Memorandum of Agreement and contract(s) to carry out these commitments.

**Final EIR/EIS and Programmatic Agreement**

- The Authority will comply with all commitments and mitigation measures identified in the Project Final EIR/EIS (see attached excerpts) and those commitments in the Project's Programmatic Agreement, including but not limited to, the commitment to engage and collaborate with the Tribe in the ongoing development and implementation of the Project.
- The Authority will engage and collaborate with the Tribe to move and relocate facilities to avoid impacts to tribal cultural resources to the extent possible, recognizing that some facilities cannot be moved.
- The Authority will provide funding for the Tribe to complete an ethnographic study or similar requested initiative.
- The Authority will include the Tribe in the development of the Project Recreation Management Plan (Plan development to begin in 2025 timeframe).
- The Authority will engage and collaborate with the Tribe to protect resources that can be avoided on Authority-owned lands, including granting protective easements to the Tribe, establishing exclusion areas for the general public, and allowing Tribal members to access these resources, to the extent feasible.
- The Authority will provide funding for the Tribe to participate in the above efforts and in construction monitoring efforts through the construction of the Project.
- The Authority will waive any and all claims to ownership of tribal cultural items found on the Authority's lands, including ceremonial items and archaeological items, and work diligently and expeditiously to provide these to the appropriate Tribe. For example only, items found along the Dunnigan Pipeline in Yolo County may be most appropriately provided to the Yocha Dehe Wintun Nation.

## **Economic Development**

- To the extent feasible, the Authority would work with the Tribe to identify appropriate Authority planned Project expenditures to serve as a local cost share, where possible, toward Federal and State grants and loans sought for Tribal community improvements.
- The Authority would include CICC businesses in its proposed local preference purchasing program and commits to packaging construction, equipment, and materials contracts for the Project, as feasible, in ways that afford opportunity for CICC businesses to compete for the work.
- The Authority would commit to funding the development of a Maxwell Community Plan, led by the County and to be completed by May 2024. The Authority would ensure that 1) the Tribe has the opportunity to meaningfully participate in the development of the Maxwell Community Plan and 2) the existing Tribe-owned property in Maxwell (near the sewer ponds) is included in the consideration for future development.
- The Authority would extend regional training and employment opportunities being offered in conjunction with the Project (e.g. MC3 worker training program) to CICC members.

## **Cultural and Traditional Recognition and Preservation**

- The Authority would provide access to Authority-owned land to the Tribe for cultural and traditional activities (area, granted rights, and applicability to be determined in the future). This would include both Authority owned land around the reservoir and Authority-owned biological resource mitigation lands.
- The Authority is planning two recreation areas at the new Sites Reservoir. The Authority would commit to 1) planning, designing and constructing physical improvements in close coordination with the Tribe and 2) seek to honor the culture and traditions of the Tribe, including considering the following:
  - Naming of recreation area landmarks and roads internal to the recreation area.
  - Designing the recreation area - such as designing the road and tent spots around a traditional roundhouse concept or traditional village layout concept.
  - Including interpretive signs, informational kiosks, and trail markers, within the recreational area boundaries that honor the cultural and traditional heritage of the Tribe from the Tribes perspective.

Other local community members have expressed strong interests in the recreation areas and the Authority must meet certain contractual obligations to the State for the development and operation of the recreation areas. The Authority would honor the above commitments with the Tribe while balancing the interests of others.

- The Authority is considering developing a visitors/interpretive center. At this time, no final decision has been made and no site has been selected. However, if developed, the Authority would work with the Tribe to represent the Tribe in exhibits from the perspective of the Tribe. If a visitor center is not ultimately developed, then the Authority would work with the Tribe to represent the Tribe in the Authority's public office in a way that the general public can access (such as in the Authority's main office lobby).
- The Authority would work with the Tribe and the four other tribes with traditional or cultural affiliation to the Project area to develop a page on its website to recognize that the Project is being built on unceded lands of the Patwin and Nomlaki people.
- The Authority will work with the Tribe to relocate any Native American burials found in the Sites Valley consistent with the Tribes wishes and in a way that respects the dignity of the individual and the Tribe. Opportunities being considered by the Authority include relocating Native American burials to an area together outside of the reservoir footprint but on Authority lands. Ideally, a location would be found and able to be acquired that held significance to the Tribe, such as an area that has other, existing tribal cultural resources, and relocating individuals there brings them all back together around the existing resource. The goal of the Authority would be to transfer fee title to this land to the Tribe. Note that this would apply to any burials found on the Authority's lands; burials found on Reclamation lands would proceed through the federal process.

**Commitments would be memorialized in a Memorandum of Agreement or other binding agreement.**

In exchange for these considerations by the Sites Project Authority:

- The Tribe agrees to be a collaborative partner in the implementation of the Project.



## Mitigation Measures in the Upcoming Final EIR/EIS

### Mitigation Measure TCR-1.1: Implement Mitigation Measures Recommended in Public Resources Code Section 21084.3 to Avoid Damaging Effects on Tribal Cultural Resources

- (1) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- (2) Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
  - (A) Protecting the cultural character and integrity of the resource.
  - (B) Protecting the traditional use of the resource.
  - (C) Protecting the confidentiality of the resource.
- (3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

### Mitigation Measure TCR-1.2: Tribal Monitoring

Tribal monitors will be permitted to observe all ground-disturbing activities.

### Mitigation Measure TCR-1.3: Implement Agreed-Upon Protocol for the Treatment of Human Remains and Cultural Items

If unanticipated discoveries of National Register of Historic Places (NRHP)/CRHR-eligible resources occur on federal land, the federal land manager will be immediately contacted, and the federal agency will follow its own process for complying with the federal Native American Graves Protection and Repatriation Act and other federal obligations, as directed under Title 43 of Code of Federal Regulations, Part 10.

If NRHP/CRHR-eligible sites or cultural items, other than human remains, are discovered on non-federal land, the Authority will work with the consulting Tribes to determine affiliation and develop appropriate treatment.

If human remains or associated grave goods are discovered during or after environmental review, the Authority will provide for the following actions:

- Immediately notify the County coroner and cease ground-disturbing activities in that location.
- If the County coroner determines the remains are those of a Native American, the coroner will notify the NAHC to establish the most likely descendant and contact the culturally affiliated Tribe.

- Allow the designated Tribal member(s) to inspect the site of the discovery and determine how the human remains and grave goods should be treated with appropriate dignity and respect.
- The location of a reburial will be recorded with the California Historic Resources Inventory System.
- The Authority, its contractors and consultants, and the coroner will not disclose the location of the original burial or reburial site.
- Treatment of all cultural items, including ceremonial items and archaeological items will reflect the religious beliefs, customs, and practices of the culturally affiliated Tribe. All cultural items, including ceremonial items and archaeological items, discovered during Project construction and operation will be turned over to the Tribe for appropriate treatment, unless otherwise ordered by a court or agency of competent jurisdiction. The Authority will waive any and all claims to ownership of Tribal cultural items, including ceremonial items and archaeological items that may be found.
- Work of Tribal monitors and treatment of human remains will proceed in accordance with treatment plans developed in consultation with the most likely descendant of the culturally affiliated Tribe as identified by the NAHC.

#### Mitigation Measure CUL-2.1: Identify NRHP/CRHR-Eligible Archaeological Resources

The Authority will identify NRHP-/CRHR-eligible archaeological resources in the study area. The work will be conducted by a Registered Professional Archaeologist. The following will occur as part of the identification.

- Relocate and map previously recorded archaeological resources that are potentially NRHP/CRHR-eligible. Upon access to previously inaccessible areas, all previously recorded archaeological resources will be located and their boundaries mapped with sub-meter accuracy Global Positioning System (GPS) units to identify their exact location in relation to Project components that have the potential to affect the resources.
- Locate and map archaeological resources that are potentially NRHP/CRHR-eligible in areas that have not been accessible previously. Upon access to previously inaccessible areas, pedestrian surveys will be conducted to identify archaeological resources that are potentially NRHP/CRHR-eligible. The surveys will be conducted using transects spaced no greater than 94 feet (30 meters) apart. All newly identified archaeological resources will be recorded on applicable DPR 523-series forms and resource boundaries, features, and diagnostic artifacts outside of features or concentrations will be recorded using sub-meter accuracy GPS units to identify their exact location in relation to Project components that have the potential to impact the resources.
- Evaluate the NRHP/CRHR eligibility of recorded archaeological resources. Once all previously and newly recorded archaeological resources have been documented, each resource will be evaluated for NRHP and CRHR eligibility. As discussed in Appendix 4A, Regulatory Requirements, cultural resources are eligible for the NRHP and CRHR if they have integrity and meet one or more of the four criteria as defined in the regulations for the NRHP (Section 4A.18.1.3, National Register of Historic Places) and CRHR (Section

4A.18.2.2, California Register of Historical Resources). Eligibility will be assessed using a combination of (but not limited to) archival, ethnographic, and tribal research, including tribal coordination and assistance, resource condition assessment, subsurface testing, and laboratory analysis. If the resource is evaluated as not eligible, no further action is required, and avoidance is preferred.

- Assess impacts on NRHP-/CRHR-eligible archaeological resources. NRHP-/CRHR-eligible archaeological resources will be individually analyzed in relation to the Project components within or near those NRHP-/CRHR-eligible resources. Thresholds of significance identified in Section 22.3.1 will be applied.

#### Mitigation Measure CUL-2.2: Avoid NRHP/CRHR-Eligible Archaeological Resources

The Authority will avoid NRHP/CRHR-eligible archaeological resources in the study area by performing the tasks listed below. The work will be conducted by a Registered Professional Archaeologist.

- The Authority will develop feasible Project design specifications to avoid NRHP/CRHR-eligible archaeological resources. If Project design allows modification, design changes will be implemented to avoid NRHP-/CRHR-eligible archaeological resources or avoid impacts on significant values of the resources (features, artifacts, or any other elements of the resource which make the resource NRHP-/CRHR-eligible).
- The Authority will develop and implement feasible Project construction protocols to avoid NRHP-/CRHR-eligible archaeological resources, including workers' cultural resources sensitivity training. Prior to construction activities in the vicinity of NRHP-/CRHR-eligible archaeological resources, the Authority will require a qualified archaeologist to provide a cultural resources sensitivity training tailboard to all construction personnel working in the vicinity of the resources. The training will identify the sensitivity, nature, and components of the resource, and inform the construction personnel of necessary protocol in the case of an unanticipated discovery. Tribes will also be invited to participate in and lead part of the workers' cultural resources sensitivity training.
- The Authority will develop and implement feasible Project operations protocols that avoid NRHP-/CRHR-eligible archaeological resources. Similar to the workers' cultural resources sensitivity training during construction activities, all personnel in charge of managing the operations will be required to have cultural resources sensitivity training for the resources near Project facilities and have a familiarity with the resource locations and identifications so that future operations or changes in operations can avoid those resources. Tribes will also be invited to participate in and lead part of the cultural resources sensitivity training.

#### Mitigation Measure CUL-2.3: Protect NRHP/CRHR-Eligible Archaeological Resources

The Authority will develop feasible Project protection of NRHP/CRHR-eligible archaeological resources during construction and operations.

- The Authority will develop protections protocols to ensure that qualified staff perform monitoring during Project-related ground disturbance to protect known resources, to

identify any unanticipated discoveries, and to implement the Post-Review Discovery Procedure.

- The Authority will develop resource-specific protection plans considering at a minimum Environmentally Sensitive Area delineation and physical fencing, and requiring archaeological monitoring where construction or operation would be in the vicinity of a known NRHP-/CRHR-eligible archaeological resource. The resource-specific protection plans will establish the methods and standards for when and how Environmentally Sensitive Area delineations will be required and when archaeological monitoring activities will be conducted for specific types of sites that will need to be protected. The resource-specific protection plans will establish the methods and standards for when Tribal monitoring activities will be invited and conducted for specific activities and/or types of sites that will need to be protected. The plans will also identify the roles and responsibilities of monitors and construction crews and specify communication protocols and reporting requirements.

#### Mitigation Measure CUL-2.4: NRHP/CRHR-Eligible Archaeological Resources Treatment

The Authority will develop and implement resource-specific treatment plans in consultation with Tribes and other interested parties who are associated with or identify with the resource. The resource-specific archaeological treatment plans will ensure that all NRHP-/CRHR-eligible archaeological resources potentially affected by the Project will be treated according to best practices and professional standards, in a traditionally and culturally sensitive manner, and that treatment options will include a range of interventions from avoidance and minimization of impacts to mitigation for the loss of the physical resource. Treatment may include, but would not be limited to, data recovery, site capping, analysis of existing artifact collections, or interpretive displays, among other things. Appropriate treatment will be determined based on resource type, resource location, types of impacts on the resource, and results of consultation with Tribes, interested parties, and agencies.

#### Mitigation Measure CUL-3.1: Cemetery Relocation Plan

The Authority will develop a Cemetery Relocation Plan for relocating two known, dedicated cemeteries located in the inundation area. This will be part of Reclamation's Programmatic Historic Properties Management Plan that would be prepared in consultation with SHPO.

Avoidance of the disturbance and/or inundation of two known cemeteries is not expected to be feasible except under the No Project Alternative. The Cemetery Relocation Plan will ensure that all remains in these two cemeteries are treated with respect and in accordance with the wishes of identifiable descendants. The Cemetery Relocation Plan will also ensure that state and county health and safety codes are followed for those interments that are relocated.

Two dedicated cemeteries in the inundation area will be relocated to a site or sites approved for interment of human remains per requirements of the California Health and Safety Code (Sections 7500–7527). This procedure will be developed through consultation and coordination with descendants and other parties with demonstrated interest in the occupants of the cemeteries. The procedure will outline legal requirements, such as acquiring a written order from the local health department or county superior court before human remains may be

moved, and other rules and regulations adopted by the board of health or health officer of the county.

#### Mitigation Measure CUL-3.2: Avoid, Protect, and Treat Human Remains

The Authority will avoid and protect any human remains encountered during pre-construction, construction, post-construction, operations, and maintenance. The Authority will follow appropriate state guidelines for halting Project activities at the discovery location, contacting the appropriate county coroner to report the discovery, and proceeding with implementation of Project policies regarding Native American consultation or implementation of a burial treatment plan. See Appendix 4A, *Regulatory Resources*, Sections 4A.18.1, *Federal Policies and Regulations*, and 4A.18.2, *State Policies and Regulations*.

The Authority and its qualified contractors will prepare a plan for treating human remains and/or grave goods encountered during archaeological investigations, Project construction, or Project operations. The Burial Treatment Plan will identify ways to avoid or reduce the likelihood of encountering as yet unidentified remains.

The Burial Treatment Plan will ensure that the Authority and its contractors respond to unanticipated discovery of human remains with respect and in accordance with the wishes of identifiable descendants. The Burial Treatment Plan will also ensure that state and county health and safety codes are followed for those interments that are relocated.

This procedure will identify legal requirements and best practices for treating Native American and non-Native American remains encountered outside of a dedicated cemetery. The Native American portion of the Burial Treatment Plan will be developed in consultation with consulting Tribes and may include individual Tribes' burial treatment plans.

The Authority and its qualified contractors will complete preparation of the Burial Treatment Plan within 6 months of issuance of the NOD/ROD, adopt the plan prior to selection of the construction contractor, and fully implement the plan prior to any soil disturbance within 500 feet of remains.

## **County of Yolo Materials**

The following materials are provided in the following order:

1. County of Yolo Letter to the Sites Project Authority Dated November 7, 2023  
Regarding Yolo County Comments on Final Environmental Impact  
Report/Environmental Impact Statement
2. Sites Project Authority's Response to Yolo County's Comments



# COUNTY OF YOLO

Office of the County Counsel

*Philip J. Pogledich*  
County Counsel

625 Court Street, Room 201 Woodland, CA 95695  
(530) 666-8172 FAX (530) 666-8279

November 7, 2023

Jerry Brown  
Executive Director  
Sites Project Authority  
122 West Old Highway 99  
Maxwell, CA 95955  
[jbrown@sitesproject.org](mailto:jbrown@sitesproject.org)  
530-438-2309

**Re: Yolo County Comments on Final Environmental Impact Report/Environmental Impact Statement**

Dear Director Brown:

On behalf of the Yolo County Board of Supervisors, I am providing the attached comments on the Final Environmental Impact Report/Environmental Impact Statement ("Final EIR/EIS") for the Sites Reservoir project. I would appreciate if you distributed this letter and the attached comments to the Authority's Board of Directors at your earliest convenience.

The attached comments describe our principal concerns with the Project based on information presented in the Final EIR/EIS. As set forth in the attachment, many of the concerns expressed arise from a lack of specific information relating to the construction of the Dunnigan Pipeline, future releases into the Yolo Bypass, and the potential environmental impacts of those activities.

We recognize the proposed project has the potential to provide important water supply, flood management, and ecosystem benefits to this region. We look forward to working collaboratively with the Sites Project Authority to address the issues raised in the attachment, preferably before the project is approved or as soon thereafter is possible.

Sincerely,

Philip J. Pogledich  
County Counsel

Enclosure

cc: Ernest Conant, Regional Director  
U.S. Bureau of Reclamation  
California-Great Basin Office  
2800 Cottage Way  
Sacramento, California 95825-1898

## **Comments of Yolo County on the Final Environmental Impact Report/Environmental Impact Statement (Final EIR/EIS) for the Sites Reservoir Project**

---

**Notice of the Recirculated Draft Environmental Impact Report and Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS).** Aside from the Notice of Availability required by the California Environmental Quality Act (CEQA) (delivered to the Yolo County Recorder on November 12, 2021), the County has been unable to determine if it received notice pursuant to CEQA or the National Environmental Policy Act (NEPA) of the November 12, 2021 release of the RDEIR/SDEIS, which is incorporated into the Final EIR/EIS. The County also lacks records indicating that the Sites Reservoir Joint Powers Authority (Sites JPA) sought to consult with the County as required by Section 15086 of the CEQA Guidelines. For at least these reasons, the comments set forth herein should not be dismissed as late or otherwise improper.

**Project Alternatives.** The County observes that the Final EIR/EIS contains only three project alternatives that are substantially similar in most respects, as the document acknowledges. The Dunnigan Pipeline, in particular, is identical in Alternatives 1 and 3, and under Alternative 2 it is longer (extending to the Sacramento River) but apparently retains the same ability to discharge directly into the Colusa Basin Drain and Yolo Bypass for ecosystem or water delivery purposes. Project facilities located outside Yolo County (including, of course, the proposed reservoir and the dams and other facilities necessary for its operation) are also very similar under each alternative.

On these grounds, the County questions whether the Final EIR/EIS presents a reasonable range of alternatives to the proposed project, including the Dunnigan Pipeline component, that would feasibly attain most of the project's basic objectives while reducing or avoiding any of its significant effects. The County specifically questions the need for, and ecosystem value of, discharges to the Yolo Bypass through the Colusa Basin Drain (an intended function of all project alternatives) and whether other means of providing ecosystem benefits for native Delta fish species, as mentioned in the project objectives listed on p. ES-11, were thoroughly evaluated. In particular, the County questions whether other alternatives with reduced impacts within Yolo County—which is not represented on the Sites JPA governing board—were carefully considered.

**Project Description.** The County observes that the Project description is vague and/or inconsistent in numerous respects. Specific concerns are set forth in the following sections but the leading concerns are as follows:

- Inadequate description of how groundwater will be supplied to the Dunnigan Pipeline construction site, how it will be used, and whether there will be any runoff or other effects that require analysis (including effects from dewatering);
- Vague description of the approach to constructing the Dunnigan Pipeline, including a lack of detail regarding excavation methodology, equipment to be used, how soil will be stored and reused or disposed of, and related matters such as vehicle trips and potential air quality (including fugitive dust) impacts; and
- Vague and inconsistent language regarding discharges for water supply and ecosystem purposes into the Yolo Bypass, including the volume and timing of such discharges and related effects on farmland.

**Dunnigan Pipeline-Groundwater Impacts During Construction.** In connection with Pipeline construction, the Final EIR/EIS describes the potential for impacts to groundwater as well as the temporary disturbance of agricultural wells and irrigation of fields near the pipeline alignment. Impacts will result from dewatering (mentioned at p. 2-68) along the Pipeline alignment, direct physical conflicts



with existing irrigation infrastructure, and the groundwater demands/usage by the construction effort itself.

Despite acknowledging the potential for such impacts, however, the Final EIR/EIS contains only scant and conclusory analysis. For example, at p. 5-57 the Final EIR/EIS simply states “[a]s identified in Chapter 8, there is sufficient groundwater supply to provide this water during the construction period without affecting yield from other wells.” The Chapter 8 analysis, however, is largely bereft of meaningful detail and does not even clearly describe why construction of the Pipeline will require “approximately 20,000 to 30,000 gallons of water per day” for several years. The abbreviated analysis of these impacts and lack of ways to mitigate them limit the County’s ability to comment on related impacts. (Final EIR/EIS at pp. 8-14 and -15.)

Further, while the Final EIR/EIS mentions (at pp. 8-14 and -15) the possibility of using “existing surface water from the Storage Partners pursuant to existing water rights agreements and permitted uses” to supply a portion of the necessary water for Pipeline construction, this possibility seems far-fetched. How is it feasible to convey surface water to the construction site near Dunnigan? The Final EIR/EIS does not say. Accordingly, the County agrees with the decision to conservatively assume all water supply needs for construction of the Dunnigan Pipeline will be met with groundwater. And this, in turn, underscores why it is essential to include a much more robust analysis of potential groundwater and agricultural impacts arising from the Dunnigan Pipeline construction. Absent such analysis, the groundwater analysis in the Final EIR/EIS is deficient.

**Dunnigan Pipeline-Excavation and Soil Storage, Reuse, and Removal.** The method of construction for the Dunnigan Pipeline is described vaguely, including whether its construction will be solely through open excavation or whether tunneling/boring will be used. Specific concerns include the following.

First, at p. 2-103, the Final EIR/EIS mentions the removal, storage, and replacement of topsoil in irrigated agricultural areas following “restoration” so that “irrigated agricultural areas would have the same soils composition except in areas that would be covered by permanent maintenance roads.” How will the Sites JPA ensure the productive capability of the soil is maintained or restored through this process? Is it reasonable to expect some degree of decline in productive capability? Will the Sites JPA retain an agronomist to guide this process, potentially in coordination with the Yolo County Agricultural Commissioner? The County strongly recommends that the Sites JPA develop an agreement with the County that appropriately addresses these issues.

Second, at p. 6-55, the Final EIR/EIS mentions that the Dunnigan Pipeline will “entail substantial excavation” but does not elaborate on whether this work presents the potential for impacts mentioned briefly in this portion of Chapter 6, including adverse effects on water quality. This is a further example of the overall lack of detail of potential construction impacts associated with the Dunnigan Pipeline—mentioning “substantial excavation” without including any related analysis leaves the County and general public without any basis for understanding this (and virtually every other) potential impact of Dunnigan Pipeline construction.

Related to this concern, Table 12-7 (on p. 12-68) of the Final EIR/EIS appears to indicate that excavation for the Dunnigan Pipeline will displace 100-250 acres of soil, depending on the project alternative selected. This is based on a 10-foot pipeline diameter, however, and therefore appears to understate potential impacts (as the external dimension of the pipeline will be somewhat larger). Based on information provided in different places in the document, the Dunnigan Pipeline will apparently be about 12 feet in diameter at depths of 6-30 feet below the ground surface.

Similarly, aside from the language at p. 2-103, the Final EIR/EIS does not explain how excess soil will be stored and reused or disposed of in connection with the Dunnigan Pipeline. The County is greatly concerned that long-term storage of excavated soil near the community of Dunnigan or other residential areas could cause adverse air quality impacts due to fugitive dust. The County urges the Sites JPA to work cooperatively with County staff to identify appropriate, safe means of storing excess soil and removing it as promptly as feasible to avoid adverse air quality impacts in and near Dunnigan.

**Dunnigan Pipeline-Construction Traffic.** At p. 2-52, the Final EIR/EIS describes daily construction traffic but does not specifically (in this section or elsewhere) describe traffic associated with Dunnigan Pipeline construction. Similarly, the discussion of local roads to be used for the project that begins at p. 2-70 entirely omits any roads in Yolo County. The following passage later in the Final EIR/EIS indicates the significance of these omissions and the potential for a high volume of construction traffic in Yolo County, with significant physical impacts on County roads that will require significant maintenance and/or reconstruction:

Daily construction traffic would consist of trucks hauling equipment and materials to and from the work sites as well as daily arrival and departure of construction workers. Construction traffic on local roadways would include dump trucks, bottom-dump trucks, concrete trucks, flatbed trucks for delivering construction equipment and permanent Project equipment, pickups, water trucks, equipment maintenance vehicles, and other delivery trucks. At the peak of construction in 2027, current estimates project between 701 and 978 daily haul trips for conveyance facilities, and approximately 1,760 daily offsite haul trips for reservoir facilities. (Final EIR/EIS at p. 18-26)

The Final EIR/EIS does not analyze the current pavement condition of affected Yolo County roads (though, as noted, it does include a brief summary of the pavement condition of local roads outside the County at pp. 2-70 and 2-75) or appear to describe and analyze how such roads will be affected by Dunnigan Pipeline construction. These omissions are significant and render the Final EIR/EIS deficient in this respect.

The Sites JPA needs to address, preferably through an enforceable agreement with Yolo County, how impacts of soil hauling and other project construction activities on Yolo County roads and infrastructure will be fully mitigated. The Final EIR/EIS mentions a number of possible routes for construction of the Dunnigan Pipeline (including various County roads), but the final routes will need to be identified in coordination with Yolo County's Public Works Director, along with a binding commitment to reconstruct impacted roads after construction is complete.

The Final EIR/EIS's analysis of general truck traffic is similarly devoid of much analysis. It states, on page 18-19, that a vehicles miles traveled (VMT) analysis was not necessary "because a qualitative assessment indicated that there would not be construction VMT impacts." We were unable to locate the qualitative assessment referenced in the Final EIR/EIR, other than simply surmising that construction workers and other trips "are effectively replacing other trips" to other projects, that could be even longer. Under that logic, a VMT analysis would be unnecessary for any project because every trip -- whether for recreational traffic or construction traffic -- is always a replacement for another trip. And even if the Final EIR/EIS intended to rely on such a theory, the analysis would have to be backed by evidence, not conjecture, about the number and distance of trips that construction workers, equipment, and materials would make absent the project. We expect that such an econometric analysis would be quite difficult to perform without extensive data about the regional construction industry, the projects that would be built during the time period, and the travel costs if the project were not undertaken. Rather than rely on such an untested and unsupported theory based on a hypothetical counter-factual, however, the

transportation chapter for the Final EIR/EIS should provide the VMT generated by the construction activities and disclose them for public review.

Nor should the Final EIR/EIS omit this analysis on the basis of SB 743 and CEQA Guidelines § 15064.3, as is implied under Impact TRA-2. Section 15064.3 states, “[g]enerally, vehicle miles traveled is the most appropriate measure of transportation impacts. For the purposes of this section, ‘vehicle miles traveled’ refers to the amount and distance of automobile travel attributable to a project.” By using the word “generally,” Section 15064.3 acknowledges that automobile VMT alone may not always be the most appropriate measure of transportation impacts. The legislative intent of SB 743, and the associated CEQA Guidelines Section 15064.3, was to ensure that lead agencies include the appropriate analysis of VMT from infill projects in transit priority areas. However, this is no infill project; it is an extensive public works projects that will generate extensive VMT. Truck trips associated with hauling construction materials and equipment are a significant concern that could – and should -- be analyzed in the Final EIR/EIS.

It appears that the Final EIR/EIS did indeed consider the VMT from truck trips generated by the project in Chapter 20 on greenhouse gas (GHG) emissions, but we cannot verify the information. Appendix 20A shows the general methodology as taking hauling into account. The Final EIR/EIS says on page 21-4, “Modeling assumptions are provided in Appendix 20B, Air Quality and GHG Analysis Data.” On the Sites EIR/EIS website, however, Appendix 20B is not included,<sup>1</sup> and we were not able to identify the modeling assumptions and data elsewhere to verify whether construction trips were considered in the GHG analysis. We do note that the emissions for initial construction were amortized over 30 years, which appears to minimize the project's immediate impacts. These matters should be clarified before the Final EIR/EIS is finalized.

**Dunnigan Pipeline-Inconsistent Language Regarding Releases into Colusa Basin Drain and Yolo Bypass.**

The Final EIR/EIS contains vague and inconsistent language regarding releases to the Colusa Basin Drain and into the Yolo Bypass, including which entity/ies are responsible for managing such releases once the project is operational. At pp. 1-7, the Final EIR/EIS describes a benefit agreement for ecosystem improvements to be administered by the California Department of Fish and Wildlife. But the terms of these agreements are not described in the Final EIR/EIS, let alone analyzed, and it is not clear whether these agreements will even cover releases into the Yolo Bypass as opposed to other ecosystem uses. Nor is there any other detail on which entity/ies will be responsible for managing such releases or, critically, how various assumptions regarding the timing and extent of releases into the Yolo Bypass will be implemented over time, including (a) how oversight will occur, (b) whether the assumptions will later be expressed as binding and enforceable commitments, and (c) whether increased maintenance or other impacts of affected facilities, such as the Tule Canal and Toe Drain, will be necessary.

Of greatest concern to the County, the Final EIR/EIS is replete with vague and inconsistent language regarding the timing, volume, and purpose of releases into the Yolo Bypass. At p. 2-77, text addressing releases into the Colusa Basin Drain and the Yolo Bypass states:

Water releases would generally be made from May to November but could occur at any time of the year, depending on a Storage Partner’s need and capacity to convey water to its intended point of delivery. Water would be released from Sites Reservoir via the I/O Works back through the TRR PGP and into the TRR or back through Funks PGP back into Funks Reservoir. Water released could be used along the GCID Main Canal, along the TC Canal, or conveyed to the new Dunnigan Pipeline and discharged to the CBD under Alternative 1 or 3 or to the Sacramento

---

<sup>1</sup> <https://sitesproject.org/wp-content/uploads/2021/11/RDEIR-SDEIS-App20B.pdf>

River under Alternative 2. From the CBD, the water may be conveyed via the Sacramento River or the Yolo Bypass to a variety of locations in the Delta or south of the Delta.

In effect, this language seems to say that anything is possible. It is hard to reconcile this language with other provisions of the Final EIR/EIS that appear to contemplate much more limited releases into the Yolo Bypass.<sup>2</sup> This overall ambiguity in the description of intended project operations prevents the County from understanding and commenting meaningfully on the likely environmental consequences of Project operations on existing uses in the Yolo Bypass, including agriculture, recreation, and environmental education.

Similarly concerning is language on p. 5-36, stating:

Sites Reservoir releases to the Sacramento River (either through CBD via the Dunnigan Pipeline or directly from the Dunnigan Pipeline) are expected to be greatest during dry conditions, with average releases of approximately 350–580 cfs during June through August of Critically Dry Water Years (Table 5-19), with releases reaching a maximum of 1,000 cfs during some months (Chapter 2). Releases to the Sacramento River would be somewhat higher during Dry Water Years than Critically Dry Water Years due to greater storage in Sites Reservoir, with average releases of approximately 560–830 cfs during June through August (Table 5-19), and releases persisting at higher levels through November relative to Critically Dry Water Years. Sites Reservoir releases to Yolo Bypass would be greater during Wet Water Years than during Critically Dry Water Years (Table 5-20), with releases reaching 380–446 cfs during August and September of Wet Water Years. Percent change in total Yolo Bypass flows is expected to be large during August through October because, during this time, Sites would be releasing habitat water to the Yolo Bypass, and existing Yolo Bypass flows are generally low during these months (Table 5-21). Small percent reductions in Yolo Bypass flows are expected during the rainy season as a result of the diversions to Sites Reservoir storage (Table 5-21)

This text raises at least two specific concerns.

First, if Alternative 1 or 3 is approved as the final project, it would seem that releases of “a maximum of 1,000 cfs during some months” will be solely feasible through the Yolo Bypass. Yet as the Final EIR/EIS acknowledges elsewhere, the Tule Canal and Toe Drain are used for agricultural irrigation and drainage in the summer and early fall and those features have limited capacity for additional releases from the Dunnigan Pipeline and Colusa Basin Drain. Even setting aside the existing uses of the Tule Canal and Toe Drain, the capacity of those features is constrained in some locations to only 200-300 cfs (as noted in the Final Environmental Impact Report/Environmental Impact Statement for the Big Notch Project, discussed elsewhere in the Sites Final EIR/EIS) and the releases discussed in the Final EIR/EIS could easily overwhelm these canals and inundate nearby agricultural land.

Second, the timing of releases described in this paragraph (June through August, and possibly through November) is at odds with the discussion of timing elsewhere in the document, which is typically limited to the months of August-October. This language, taken together with the text discussed above on p. 2-

---

<sup>2</sup> E.g., p. 2-112 (stating that “[r]eleases from Sites Reservoir would be made to meet environmental purposes, such as for the delivery of Incremental Level 4 water to refuges or fall food production in the Yolo Bypass for north Delta fish species.”); p. 6-71 (“The simulated CALSIM flow increases in August–October through the Yolo Bypass expected under Alternatives 1, 2, and 3 do not exceed 470 cfs. Based on observations during North Delta Flow Actions (Davis pers. comm.), the comparable August–October habitat flows from Sites Reservoir through the Yolo Bypass may cause limited inundation of low-elevation parcels in the upper Yolo Bypass (north of the I-80 causeway).”).

77, further illustrates the lack of a stable, accurate description of how the Dunnigan Pipeline will be operated to convey water into the Yolo Bypass for water deliveries, ecosystem purposes, or both.

**Dunnigan Pipeline-Inconsistent Language Regarding Land Use Impacts of Operations.** The Final EIR/EIS contains inconsistent language regarding potential land use and agricultural impacts of releases into the Yolo Bypass.

As indicated in footnote 2, some language in the Final EIR/EIS indicates the potential for “inundation of low-elevation parcels in the upper Yolo Bypass (north of the I-80 causeway) due to August-October ecosystem releases.” The precise impact appears to be quantified at p. 11-122, which states (with emphasis added):

The modeling results of Yolo Bypass inundated suitable habitat show considerable increases in mean inundation acreage under Alternatives 1, 2, and 3 relative to the NAA during August through October, including up to 805 acres for September of Above Normal Water Years under Alternatives 1A and 1B (Table 11-13). These increases are the result of planned agricultural flow releases from Sites Reservoir. The releases reach the Yolo Bypass via the CBD, entirely bypassing the Sacramento River. For this reason and because of the months in which they occur, these summer-fall increases in inundated acreage have negligible effects on juvenile Chinook salmon or steelhead, including winter-run.

If this is accurate and the increased acreage includes land outside the Tule Canal and Toe Drain features, much more information on the modeled inundation footprint and related impacts is needed. However, the County notes that the Final EIR/EIS also contains conflicting information that indicates no impacts are predicted. For example, at p. 6-71, the document states:

The intent of the releases from Sites to the Yolo Bypass during this period is to transport nutrients and food sources for fish species in the Delta. If the water inundates floodplain areas (i.e., areas outside existing channels), the food would remain on the floodplain and fail to move into the Delta. As such, Sites Reservoir would be operated to maintain flows within the existing Toe Drain, Tule Canal, and other channels, and adjustments in operations would be coordinated between the Authority and parcel owners using the existing Yolo Bypass monitoring network. Because these flows would generally be contained within the Yolo Bypass channels without spreading across the bypass floodplain, water temperatures within the bypass would not be expected to increase as a result of the habitat flows.

Similarly, text at p. 15-36 says:

As discussed under Impact AG-4, agricultural lands would not be affected during the growing season as a result of inundation at Yolo Bypass or the CBD for Alternative 1, 2, or 3. Therefore, Alternatives 1, 2, and 3 would not result in temporary or permanent impacts as a result of changes in water regime at Yolo Bypass and CBD.

Finally, the Final EIR/EIS does not describe the easement rights or other property interests necessary to enable the Yolo Bypass releases described therein. Does the agency/ies responsible for such releases intend to use the easement rights that the California Department of Water Resources is currently seeking to acquire through eminent domain for the Big Notch Project? Some discussion on this point should be included to ensure affected Yolo Bypass landowners (as well as the County and other interested local agencies, such as reclamation districts) understand how the project could affect their property rights.

**Dunnigan Pipeline-Capacity.** The maximum capacity of the Pipeline is not clearly described. The Final EIR/EIS states that the Pipeline will be operated to convey up to 1,000 cfs, but it does not indicate that this is the maximum conveyance capacity of the facility. In approving the Project or otherwise, the Sites JPA should clarify the maximum conveyance capacity of the Pipeline.

County of Yolo November 7, 2023, Letter

General Response from the Authority: The Authority’s adopted Strategic Plan includes a core value of recognizing the significant contributions of local Sacramento Valley landowners and communities and will be a respectful, supportive partner and a good neighbor throughout the life of the Project. The Authority appreciates the comments from Yolo County and is committed to being a good neighbor throughout the life of the Project.

Some of the comments address items that are outside of the scope of the Final EIR/EIS, such as whether easements are needed to convey water through certain facilities. The Authority has recently established the Lower Colusa Basin Drain System Working Group to work through the complex network of infrastructure and waterways that involves multiple partner agencies, private landowners, and a long history of cooperation and water operations to address questions related to operations of facilities, flowage rights, and how best to coordinate with other districts/operators and landowners in the future Sites Project operations. Yolo County has been invited to participate in this group and the Authority appreciates the counties participation to date. While the Lower Colusa Basin Drain System Working Group is focused on the Colusa Basin Drain downstream of the Balsdon Weir, the Knights Landing Ridge Cut, the Knights Landing Outfall Gates, and the Wallace Weir, extending into the Yolo Bypass Tule Canal and Toe Drain is a logical extension of the group and would work to address many of the questions that Yolo County raises.

Comment Number, Topic	Comment	Response
1.a Project Alternatives	The County questions whether the Final EIR/EIS presents a reasonable range of alternatives to the proposed project, including the Dunnigan Pipeline component, that would feasibly attain most of the project's basic objectives while reducing or avoiding any of its significant effects.	<p>The Authority and Reclamation conducted an extensive screening process that considered the Project objectives and purpose and need to develop a reasonable range of potentially feasible alternatives (including the preferred Project [alternative]) for evaluation. This screening process conducted by the Authority and Reclamation built upon prior water supply evaluations that examined a broad array of factors (see Appendix 2A, Alternatives Screening and Evaluation, and Appendix 2B, Additional Alternatives Screening and Evaluation).</p> <p>The Authority and Reclamation considered multiple operational scenarios over the course of Project development that were designed to meet the Project objectives, purpose, and need; enhance</p>

		<p>Project benefits; and reduce or avoid impacts. The features of alternatives, including Sites Reservoir capacity, conveyance systems, and operational scenarios, were conceptually developed and refined over time to maximize the achievement of the objectives. The Dunnigan Pipeline was added to the Project as part of the Authority’s 2019 value planning efforts. In an effort to rely on existing facilities to the extent possible and reduce the environmental impacts of building new infrastructure, the value planning process identified that a connection from the Tehama-Colusa Canal to the Colusa Basin Drain in the area of Dunnigan would allow the Project to utilize the excess capacity in the Tehama-Colusa Canal and connect with the Colusa Basin Drain with the shortest pipeline possible in the Dunnigan area. Please see Master Response 9, Alternatives Development, regarding the 2019 Value Planning Process and the Dunnigan Pipeline.</p> <p>In addition, while the EIR includes two configurations for the Dunnigan Pipeline, note that CEQA does not require an analysis of alternatives of a project component, and instead CEQA’s alternatives requirement focuses on the alternatives to the project as a whole.</p>
1.b Project Alternatives	The County specifically questions the need for, and ecosystem value of, discharges to the Yolo Bypass through the Colusa Basin Drain (an intended function of all project alternatives) and whether other means of providing ecosystem benefits for native Delta fish species, as mentioned in the project objectives listed on p. ES-11, were thoroughly evaluated.	Chapter 11, Aquatic Biological Resources, provides detailed analysis of the potential impacts on aquatic biological resources, including potential impacts on native fish species such as Chinook salmon, delta smelt, longfin smelt, and sturgeon. The Project includes actions to ensure operational impacts of the alternatives would be less than



		<p>significant and would have no adverse effect to anadromous and endemic fish populations. Please see Master Response 2, Alternatives Description and Baseline, regarding the merits of the Project and alternatives. Please see Master Response 5, Aquatic Biological Resources, regarding Project benefits to fisheries.</p> <p>It is important to note that the conveyance of water to the Yolo Bypass in a way similar to the North Delta Flow Action for the benefit of Delta smelt was a component of the Authority's Proposition 1 application to the California Water Commission. The California Department of Fish and Wildlife found this to be a net ecosystem benefit and the California Water Commission conditionally awarded the Sites Authority funding for this ecosystem benefit. The Authority envisions CDFW managing this water and the ecosystem benefit. However, the Authority and CDFW are in discussions on whether this water would be managed by the Authority or CDFW. Regardless, the water would be managed and conveyed through the Yolo Bypass consistent with analysis in the Final EIR/EIS – in particular, staying within the Tule Canal and Toe Drain and not overflowing onto adjacent agricultural lands and being conveyed through the Yolo Bypass from August through October.</p> <p>The Authority is not aware of another way to achieve the Delta smelt benefit than to provide water through the Colusa Basin Drain, to the Ridgecut, and into the North Delta. This action</p>
--	--	---

		<p>mimics the existing North Delta Flow Action and is the only way that the Authority is aware of to move aquatic organisms into the North Delta to provide food for Delta smelt.</p>
<p>1.c Project Alternatives</p>	<p>In particular, the County questions whether other alternatives with reduced impacts within Yolo County—which is not represented on the Sites JPA governing board—were carefully considered.</p>	<p>The Authority and Reclamation conducted an extensive screening process that considered the Project objectives and purpose and need to develop a reasonable range of potentially feasible alternatives (including the preferred Project [alternative]) for evaluation. This screening process conducted by the Authority and Reclamation built upon prior water supply evaluations that examined a broad array of factors (see Appendix 2A, Alternatives Screening and Evaluation, and Appendix 2B, Additional Alternatives Screening and Evaluation).</p> <p>The Authority and Reclamation considered multiple operational scenarios over the course of Project development that were designed to meet the Project objectives, purpose, and need; enhance Project benefits; and reduce or avoid impacts. The features of alternatives, including Sites Reservoir capacity, conveyance systems, and operational scenarios, were conceptually developed and refined over time to maximize the achievement of the objectives. Please see Master Response 9, Alternatives Development. Please see Master Response 2, Alternatives Description and Baseline, regarding the merits of the Project and alternatives.</p> <p>In addition, and as stated above, the Authority is not aware of another way to achieve the Delta</p>

		<p>smelt benefit than to provide water through the Colusa Basin Drain, to the Ridgecut, and into the North Delta. This action mimics the existing North Delta Flow Action and is the only way that the Authority is aware of to move aquatic organisms into the North Delta to provide food for Delta smelt.</p>
2.a Project Description	<p>The County observes that the Project Description is vague and/or inconsistent in numerous respects.</p>	<p>The EIR/EIS includes information and data on the location, design, schedule, and operation for all Project components for each of the alternatives. The project description includes sufficient detail to analyze the Project impacts provides sufficient detail for decision makers to understand the alternatives being evaluated.</p>
2.b Project Description	<p>Inadequate description of how groundwater will be supplied to the Dunnigan Pipeline construction site, how it will be used, and whether there will be any runoff or other effects that require analysis (including effects from dewatering)</p>	<p>As indicated in Chapter 8, Groundwater Resources, in general, groundwater would be required for uses such as moisture conditioning of fill materials, batching concrete, grouting, and dust suppression for haul roads, stockpiles, disposal areas, quarries, and borrow areas. Groundwater encountered during excavation would be stored on site in bermed areas or Baker tanks within the Project footprint before being discharged onto suitable land where it would infiltrate back into the water table. Encountered groundwater may also be used for dust suppression or moisture conditioning of embankment fill materials, which would reduce reliance on pumped groundwater.</p> <p>In general, water use during construction would be primarily related to construction of the proposed pipelines (e.g., Dunnigan pipeline, Funks pipeline) for trench compaction and dust control. Water</p>

		<p>required for construction of Dunnigan pipeline (approximately 20,000 to 30,000 gallons per day) would be sourced from existing surface water from the Storage Partners pursuant to existing water rights agreements and permitted uses; existing groundwater wells in the pipeline area; or dewatering efforts (see Table 5-33, Summary of Expected Construction Water Use, Chapter 5, Surface Water Resources). The required daily construction use would be less than 1% of the 2018 groundwater pumped for total groundwater use within the Yolo County Subbasin (Table 8-2). The use of groundwater for the construction of the Dunnigan Pipeline would not result in a substantial decrease in groundwater supplies or substantial interference with groundwater recharge in this subbasin, as discussed in Chapter 8. Groundwater discharged to surface waterbodies and land would comply with RWQCB Order No. R5-2022-0006 and State Water Resource Control Board Order No. 2003-0003-003-DWQ, respectively (see BMP-14 in Appendix 2D, Best Management Practices, Management Plans, and Technical Studies). BMP-12 would address the potential for increased erosion that could occur as a result of ground-disturbing construction activities or areas of bare soil and would ensure that erosion rates would not be excessive. BMP-12 Sediment control measures, such as placement of silt fencing around areas of ground disturbance, would capture sediment that is generated from exposed soils. The runoff management measures would be implemented to reduce runoff rates and prevent concentrated runoff from causing scour.</p>
--	--	---

<p>2.c Project Description</p>	<p>Vague description of the approach to constructing the Dunnigan Pipeline, including a lack of detail regarding excavation methodology, equipment to be used, how soil will be stored and reused or disposed of, and related matters such as vehicle trips and potential air quality (including fugitive dust) impacts</p>	<p>The EIR/EIS includes information and data on the location, design, schedule, and operation for all Project components for each of the alternatives evaluated with sufficient detail to analyze the Project impacts and sufficient detail regarding the Project for decision makers to understand the alternatives being evaluated. Appendix 2C, Construction Means, Methods, and Assumption, describes construction details including excavation methodology for the Dunnigan Pipeline. For example, Section 2.2.1 <i>Water</i> identifies the need for 20,000 to 30,000 gallons of water per day during construction of the Dunnigan Pipeline and that water captured during dewatering may be reused. Table 2C-5 provides the total number of truck (18,460) and personal vehicle trips (51,830) anticipated during two year duration of construction. Section 3.3.6 <i>Conveyance to the Sacramento River</i> provides an overview of construction activities, including the description of clearing and grubbing, materials to be utilized, and various steps needed to stage for construction, trench and tunnel activities, installation of pipeline, and and backfill trenches. Detailed drawings are provided in Figures C2-59 and C2-60. Please see Chapter 18, Navigation, Transportation, and Traffic, for information about numbers of construction trips and vehicle miles traveled VMT during operation. Table 18-2. <i>Sites Reservoir Project Access Roads</i> identifies what roads will be utilized to access the Dunnigan Pipeline are for construction, including I-5 at Colusa-Yolo county line, County Road 99W south of County Road 8, County Road 8, and County Road 90B. Section 18.2.1.1., <i>Yolo County</i>, describes the</p>
--------------------------------	---	---

		<p>Yolo County roads that would be affected by the Project including configuration and existing daily vehicle trips. Traffic and transportation impacts are addressed in Section 18.4, Impact Analysis. Based on the number of vehicle trips per day (146 employee and 154 truck trips for Alternative 1 and 3 and 228 employee and 280 truck trips for Alternative 2) impacts were determined to be less than significant.</p> <p>The air quality impacts of the Project are discussed in Chapter 20, Air Quality. Tables 20-17 and 20-18 compare the particulate matter generated between the alternatives. Appendix 20A <i>Methodology for Air Quality and GHG Emissions Calculations</i> also provides the assumptions and methodology used for quantifying air quality emissions related to construction, operation and maintenance of the Dunnigan Pipeline. Please also see BMP-10, Salvage, Stockpiling, and Replacement of Topsoil and Preparation of a Topsoil Storage and Handling Plan, discusses the storage and placement of excavated soil.</p>
2.d Project Description	Vague and inconsistent language regarding discharges for water supply and ecosystem purposes into the Yolo Bypass, including the volume and timing of such discharges and related effects on farmland	Please refer to Master Response 2, Alternatives Description and Baseline, regarding the adequacy of the project description and how they fulfill the requirements for project-level review under CEQA and NEPA. The EIR/EIS includes a level of detail appropriate for evaluation and review of the environmental impacts. As described in Chapter 2, Project Description and Alternatives, most water for Proposition 1 benefits would be conveyed through the Yolo Bypass/Cache Slough Complex, although water destined for Storage Partners who receive

		<p>water from the North Bay Aqueduct could also follow this path (most likely though, this water would be released directly in the Sacramento River). Flows into the Yolo Bypass for ecosystem purposes would most likely occur during the summer and fall months.</p> <p>Please refer to Chapter 5, Surface Water Resources, and associated appendices, for more details regarding the potential changes in hydrology resulting from Project operations, including releases to Yolo Bypass, as modeled using CALSIM II. Tables 5-20 and 5-21 provide ample details regarding the expected timing and volume of releases to the Yolo Bypass and potential impacts of the Project on total Yolo Bypass flow, respectively. Table 5-30 includes information about simulated Sites water supply deliveries for Yolo Bypass Habitat Water Supply. Table 5-32 presents CALSIM II modeled flood flows for the NPA and the Project Alternatives, including flows through the Yolo Bypass. These hydraulic modeling results serve as the basis for the impact analyses and determinations subsequently presented in each resource chapter. Please refer to Chapter 15, Agriculture and Forestry Resources, regarding potential effects on farmland, including a detailed analysis of the potential for Sites Reservoir releases to result in inundation to the Yolo Bypass and CBD and thus potentially result in conversion of agricultural to non-agricultural land. Impact AG-4 concluded that agricultural lands would not be affected during the growing or harvesting seasons as a result of inundation at Yolo Bypass, nor would</p>
--	--	---

		<p>the Project substantially change concentrations of methylmercury or arsenic, or significantly affect water temperatures. Please also refer to Appendix 11M, Yolo and Sutter Bypass Flow and Weir Spill Analysis, for more details regarding modeling of inundation in Yolo Bypass and Sutter Bypass.</p>
<p>3.a Dunnigan Pipeline- Groundwater Impacts During Construction</p>	<p>In connection with Pipeline construction, the Final EIR/EIS describes the potential for impacts to groundwater as well as the temporary disturbance of agricultural wells and irrigation of fields near the pipeline alignment. Impacts will result from dewatering (mentioned at p. 2-68) along the Pipeline alignment, direct physical conflicts with existing irrigation infrastructure, and the groundwater demands/usage by the construction effort itself. Despite acknowledging the potential for such impacts, however, the Final EIR/EIS contains only scant and conclusory analysis. For example, at p. 5-57 the Final EIR/EIS simply states “[a]s identified in Chapter 8, there is sufficient groundwater supply to provide this water during the construction period without affecting yield from other wells.”</p>	<p>No significant impacts on groundwater (see Chapter 8, Groundwater Resources) or agriculture (see Chapter 15, Agriculture and Forestry Resources) specifically related to Dunnigan pipeline construction were identified in the Final EIR/EIS.</p> <p>As noted in Chapter 2, Project Description and Alternatives, Page 2-68 states that dewatering would be necessary for a segment of the pipeline “to reduce groundwater levels to 20 or 30 feet below ground surface along its length. Trenching and pipeline installation would be completed after dewatering...Construction would include open cut of approximately 100 feet to cross Bird Creek in the dry season.” Chapter 8, Groundwater Resources notes that dewatering, including in the Dunnigan Pipeline area, “would not change the permeability of the ground surface where construction activities would occur. Therefore, dewatering would not affect groundwater quality during construction.” Chapter 8 further states that the Dunnigan Pipeline may require dewatering to a depth of 30 feet below ground surface (bgs). “The average well depth for domestic and agricultural wells within the Yolo Subbasin is typically 100 feet bgs, with well screens starting around 50 feet bgs (California Department of Water Resources 2020b). Clay soils in rice fields adjacent to the Dunnigan Pipeline would act as a</p>



		<p>barrier between the construction dewatering depth and basin aquifer.” The Final EIR/EIS concludes that the pipeline installation would not result in a substantial decrease in groundwater supplies or substantial interference with groundwater recharge.</p> <p>As discussed in Chapter 15 for Impact AG-1 and AG-3, construction activities in general would temporarily disturb agricultural land but implementation of BMPs (BMP-10, BMP-13 and BMP-36) would result in the restoration of Important Farmland disturbed during construction to preconstruction conditions. Accordingly this would be a less-than-significant impact. Placement of underground pipelines on land zoned for agricultural use or in Williamson Act contracts would not result in a permanent change of land use from agricultural use. As such, no impact would occur under construction and operations (see Impact AG-2).</p> <p>As indicated in Chapter 8, Groundwater Resources, while water could come from both surface water and groundwater sources, the groundwater impact analysis conservatively assumes that the whole supply would come from groundwater. Even assuming that all construction water required for construction of Dunnigan pipeline would come from groundwater, the required daily construction use would be less than 1% of the 2018 groundwater pumped for total groundwater use within the Yolo County Subbasin (Table 8-2). Accordingly, it was determined that there would be a less-than-</p>
--	--	--

		<p>significant impact on groundwater supplies in the Yolo Subbasin and therefore no mitigation would be required (see Impact GW-2, Chapter 8).</p>
<p>3.b Dunnigan Pipeline- Groundwater Impacts During Construction</p>	<p>The Chapter 8 analysis, however, is largely bereft of meaningful detail and does not even clearly describe why construction of the Pipeline will require “approximately 20,000 to 30,000 gallons of water per day” for several years. The abbreviated analysis of these impacts and lack of ways to mitigate them limit the County’s ability to comment on related impacts. (Final EIR/EIS at pp. 8-14 and -15.)</p>	<p>The Dunnigan Pipeline would be approximately 4 miles (Alternatives 1 and 3) or 10 miles (Alternative 2) in length, have a minimum depth of 6 feet below ground surface, and have an inner diameter of approximately 9 feet (Alternatives 1 and 3) to 10.5 feet (Alternative 2). These specifications were taken into consideration when estimating water use during construction of the pipeline. As indicated in Chapter 8, Groundwater Resources, while water could come from both surface water and groundwater sources, the groundwater impact analysis conservatively assumes that the whole supply would come from groundwater. Even assuming that all construction water required for construction of Dunnigan Pipeline would come from groundwater, the required daily construction use would be less than 1% of the 2018 groundwater pumped for total groundwater use within the Yolo County Subbasin (Table 8-2). Accordingly, it was determined that there would be a less-than-significant impact on groundwater supplies in the Yolo Subbasin and therefore no mitigation would be required (see Impact GW-2, Chapter 8).</p> <p>Please refer to Master Response 2, Alternatives Description and Baseline, regarding the adequacy of the Project description within the context of CEQA and NEPA.</p>

<p>3.c Dunnigan Pipeline- Groundwater Impacts During Construction</p>	<p>Further, while the Final EIR/EIS mentions (at pp. 8-14 and -15) the possibility of using “existing surface water from the Storage Partners pursuant to existing water rights agreements and permitted uses” to supply a portion of the necessary water for Pipeline construction, this possibility seems far-fetched. How it is feasible to convey surface water to the construction site near Dunnigan? The Final EIR/EIS does not say. Accordingly, the County agrees with the decision to conservatively assume all water supply needs for construction of the Dunnigan Pipeline will be met with groundwater. And this, in turn, underscores why it is essential to include a much more robust analysis of potential groundwater and agricultural impacts arising from the Dunnigan Pipeline construction. Absent such analysis, the groundwater analysis in the Final EIR/EIS is deficient.</p>	<p>The Dunnigan Pipeline between the Tehama-Colusa Canal and the Colusa Basin Drain would generally be located within the Dunnigan Water District boundaries. The Authority could purchase water for its construction needs from Dunnigan Water District. A small portion of the pipeline falls outside of the district boundaries and thus, the Authority would need to work closely with Dunnigan Water District to determine if District water supplies could be used along this portion of the construction site. Similarly, the Dunnigan pipeline from the Colusa Basin Drain to the Sacramento River (which is not part of the Project as proposed for approval) is within Reclamation District No 108 boundaries. The Authority could work with Reclamation District No. 108 for a surface water supply from the District for this portion of the construction site. Exact connection locations and facilities for possible connection to either water district’s distribution system are not known at this time and would be explored further if the Authority were to use surface water for construction. However, as the pipeline runs through both districts and both districts generally provide water to lands that the pipeline would be located on, connections for surface water, if needed, are expected to be in proximity to the construction site.</p>
<p>4.a Dunnigan Pipeline- Excavation and Soil Storage, Reuse, and Removal</p>	<p>The method of construction for the Dunnigan Pipeline is described vaguely, including whether its construction will be solely through open excavation or whether tunneling/boring will be used.</p>	<p>The EIR/EIS includes information and data on the location, design, schedule, and operation for all Project components for each of the alternatives evaluated with sufficient detail to analyze the Project impacts and sufficient detail regarding the Project for decision makers to understand the alternatives being evaluated.</p>

		<p>Specifics related to the Dunnigan Pipeline are included in EIR/EIS Chapter 2, Project Description and Alternatives. This includes a discussion on its construction. Appendix 2C, Construction Means, Methods and Assumptions outlines the construction activities associated with the Dunnigan Pipeline:</p> <ul style="list-style-type: none"><li>• Clear and grade the pipeline alignment.</li><li>• Excavate pipeline trench and provide shoring. It is anticipated that several hundred feet of open trench would occur at one time.</li><li>• Install and weld up the pipeline and backfill with a combination of CLSM and native material.</li><li>• Tunneling under Interstate-5, Highway 99, and the railroad, as follows:<ul style="list-style-type: none"><li>○ Construct jacking pit and receiving pit. Provide shoring to support these pits that are anticipated to be about 25 feet in depth +/- . Remove and stockpile excavated material.</li><li>○ Assemble large boring machine sized to provide a roughly 128-inch to 144-inch casing pipe bore. Final diameter will be determined during design.</li><li>○ Obtain steel casing pipe</li><li>○ Lower tunneling machine into jacking pit after setting up guide rails to provide correct tunnel alignment.</li></ul></li></ul>
--	--	---

		<ul style="list-style-type: none"><li>○ Begin tunneling from jacking pit to receiving pit. Remove and dispose of excavated material offsite.</li><li>○ Weld the steel casing segments together as tunneling progresses.</li><li>○ Continue tunneling, welding and removing excess material until tunneling machine reaches receiving pit.</li><li>○ Removing tunneling machine from receiving pit.</li><li>○ Install main carrier pipe in casing pipe and weld joints as pipe segments are lowered into jacking pit. Carrier pipe will have piping supports attached to help center in casing pipe and to keep from resting on casing pipe.</li><li>○ Depending on requirements of County and Caltrans, likely will fill annulus space between casing and carrier pipes with sand or lightweight grout. Ends of casing pipe will be plugged using boots or other methods to prevent grout or sand from running into pits.</li><li>○ Add cathodic protection requirements to casing and carrier pipes.</li><li>○ Connect extensions of carrier pipes in each pit to return to open cut methods for normal pipe installation.</li><li>○ Backfill the jacking and receiving pits with material removed during step 1.</li></ul>
--	--	--

		<p>In some instances, slurry will be used around the pipes, followed by backfill with native excavated material.</p> <ul style="list-style-type: none"> <li>• Install flow meters, valving, air valves, blowoffs, and access manways.</li> <li>• Install a cathodic protection system consisting of rectifiers attached to pipe.</li> <li>• Revegetate and restore the pipeline route, and constructing a gravel maintenance road along the pipeline route</li> <li>• Construct the CBD Outlet Structure <ul style="list-style-type: none"> <li>○ Clear and grub area along CBD for the outlet structure.</li> <li>○ Transport materials to the Project Site. Materials would consist of concrete, rebar, yard piping, energy dissipation valves, and electrical equipment.</li> <li>○ Place construction materials at staging areas.</li> <li>○ Build the outlet structure, which would consist of excavating the ground to accommodate placement of structure structural concrete and rebar.</li> <li>○ Connect the outlet structure to the Dunnigan Pipeline.</li> <li>○ Test the facility.</li> </ul> </li> </ul>
4.b Dunnigan Pipeline-Excavation and Soil Storage, Reuse, and Removal	First, at p. 2-103, the Final EIR/EIS mentions the removal, storage, and replacement of topsoil in irrigated agricultural areas following “restoration” so	Please see BMP-10, Salvage, Stockpiling, and Replacement of Topsoil and Preparation of a Topsoil Storage and Handling Plan, discusses the storage

	<p>that “irrigated agricultural areas would have the same soils composition except in areas that would be covered by permanent maintenance roads.” How will the Sites JPA ensure the productive capability of the soil is maintained or restored through this process? Is it reasonable to expect some degree of decline in productive capability? Will the Sites JPA retain an agronomist to guide this process, potentially in coordination with the Yolo County Agricultural Commissioner? The County strongly recommends that the Sites JPA develop an agreement with the County that appropriately addresses these issues.</p>	<p>and placement of excavated soil, including employing a soil scientist. The Authority will have agreements with the landowners whose property is affected by construction and commitments by the Authority to take appropriate measures to ensure soil composition post- construction are satisfactory to the landowner will be part of that agreement. Please see BMP-13 Development and Implementation of Spill Prevention and Hazardous Materials Management/Accidental Spill Prevention, Containment, and Countermeasure Plans (SPCCPs) and Response Measures, and BMP-36, Control of Invasive Plant Species during Construction, regarding additional protective measures protective of agricultural productivity. Please see Appendix 2D, Best Management Practices, Management Plans, and Technical Studies.</p> <p>As discussed in Chapter 15, Agriculture and Forestry Resources, implementing BMP-10, BMP-13, and BMP-36 would result in restoration of Important Farmland disturbed during construction to preconstruction conditions. Therefore, agricultural productivity and associated soil properties would not be reduced as a result of construction.</p>
<p>4.c Dunnigan Pipeline- Excavation and Soil Storage, Reuse, and Removal</p>	<p>Second, at p. 6-55, the Final EIR/EIS mentions that the Dunnigan Pipeline will “entail substantial excavation” but does not elaborate on whether this work presents the potential for impacts mentioned briefly in this portion of Chapter 6, including adverse effects on water quality. This is a further example of the overall lack of detail of potential construction impacts associated with the Dunnigan Pipeline—mentioning “substantial excavation” without including any related</p>	<p>Additional detail regarding construction of Dunnigan pipeline is provided in Chapter 2, Project Description and Alternatives. The greatest potential for water quality impacts from construction activities would come from in-water work (e.g., dredging and in-channel construction) and ground disturbance (e.g., excavation and tunneling), as well as through the release of chemical pollutants, and other mechanisms discussed for Impact WQ-1 in</p>

	analysis leaves the County and general public without any basis for understanding this (and virtually every other) potential impact of Dunnigan Pipeline construction.	Chapter 6, Surface Water Quality. Accordingly, these mechanisms, and their potential effect(s) on water quality, are discussed generally rather than discuss in detail the construction of each component of Alternatives 1, 2 and 3.
4.d Dunnigan Pipeline- Excavation and Soil Storage, Reuse, and Removal	Related to this concern, Table 12-7 (on p. 12-68) of the Final EIR/EIS appears to indicate that excavation for the Dunnigan Pipeline will displace 100-250 acres of soil, depending on the project alternative selected. This is based on a 10-foot pipeline diameter, however, and therefore appears to understate potential impacts (as the external dimension of the pipeline will be somewhat larger). Based on information provided in different places in the document, the Dunnigan Pipeline will apparently be about 12 feet in diameter at depths of 6-30 feet below the ground surface.	As described in Chapter 2, Project Description and Alternatives, under Alternatives 1 and 3, the Dunnigan Pipeline would convey water released from the TC Canal to the Colusa Basin Drain. The Dunnigan Pipeline would be approximately 4 miles (Alternatives 1 and 3) or 10 miles (Alternative 2) in length, have a minimum depth of 6 feet below ground surface, and have an inner diameter of approximately 9 feet (Alternatives 1 and 3) to 10.5 feet (Alternative 2). Construction of the Dunnigan Pipeline from the TC Canal to the CBD would require dewatering, trenching, and using pile driving or a vibration hammer. Dewatering would be necessary for a segment of the pipeline to reduce groundwater levels to 20 or 30 feet below ground surface along its length.  The Dunnigan Pipeline is anticipated to be structural steel and the outside diameter is about a foot greater than the 9.5 foot inside diameter.
4.e Dunnigan Pipeline- Excavation and Soil Storage, Reuse, and Removal	Similarly, aside from the language at p. 2-103, the Final EIR/EIS does not explain how excess soil will be stored and reused or disposed of in connection with the Dunnigan Pipeline. The County is greatly concerned that long-term storage of excavated soil near the community of Dunnigan or other residential areas could cause adverse air quality impacts due to fugitive dust. The County urges the Sites JPA to work cooperatively with County staff to identify	Please see BMP-10, Salvage, Stockpiling, and Replacement of Topsoil and Preparation of a Topsoil Storage and Handling Plan, discusses the storage and placement of excavated soil, including employing a soil scientist. Please also see BMP-28, Preparation and Implementation of Fugitive Dust Control Plans, discusses specific actions the Authority will take to limit air quality impacts from the Project, including during earth moving, cleaning



	<p>appropriate, safe means of storing excess soil and removing it as promptly as feasible to avoid adverse air quality impacts in and near Dunnigan.</p>	<p>paved roads, minimizing dust emissions from dry disturbed soil surface areas and unpaved roads, and from soil piles. Please see Appendix 2D, Best management Practices, Management Plans, and Technical Studies. The Authority will have agreements with the landowners whose property is affected by construction and commitments by the Authority to take appropriate measures to ensure soil composition post- construction are satisfactory to the landowner will be part of that agreement.</p>
<p>5.a Dunnigan Pipeline- Construction Traffic</p>	<p>At p. 2-52, the Final EIR/EIS describes daily construction traffic but does not specifically (in this section or elsewhere) describe traffic associated with Dunnigan Pipeline construction. Similarly, the discussion of local roads to be used for the project that begins at p. 2-70 entirely omits any roads in Yolo County. The following passage later in the Final EIR/EIS indicates the significance of these omissions and the potential for a high volume of construction traffic in Yolo County, with significant physical impacts on County roads that will require significant maintenance and/or reconstruction:</p> <p style="padding-left: 40px;">Daily construction traffic would consist of trucks hauling equipment and materials to and from the work sites as well as daily arrival and departure of construction workers. Construction traffic on local roadways would include dump trucks, bottom-dump trucks, concrete trucks, flatbed trucks for delivering construction equipment and permanent Project equipment, pickups, water trucks, equipment maintenance vehicles, and other delivery trucks. At the peak of construction in 2027, current estimates project between 701</p>	<p>Please see Chapter 18, Navigation, Transportation, and Traffic. Section 18.2.1, Project Access Roads, includes a discussion of overall project access and Interstate-5. County Road 99W, County Road 8, and County Road 90B in Yolo County are included in Section 18.2.1.1.</p> <p>Roadways and highways needed to access the Dunnigan Pipeline were included in Tables 18-12, 18-13 and 18-15 along with other project features. Table 18-14 provides a summary of the daily trips estimated on a typical day of peak construction for all facilities, including 228 employee trips and 280 truck haul trips for the Dunnigan Pipeline per day.</p>

	<p>and 978 daily haul trips for conveyance facilities, and approximately 1,760 daily offsite haul trips for reservoir facilities. (Final EIR/EIS at p. 18-26)</p>	
<p>5.b Dunnigan Pipeline- Construction Traffic</p>	<p>The Final EIR/EIS does not analyze the current pavement condition of affected Yolo County roads (though, as noted, it does include a brief summary of the pavement condition of local roads outside the County at pp. 2-70 and 2-75) or appear to describe and analyze how such roads will be affected by Dunnigan Pipeline construction. These omissions are significant and render the Final EIR/EIS deficient in this respect.</p>	<p>The estimated number of daily trips as a result of the Project was added to the baseline conditions for planned construction routes to understand potential changes to the level of service (LOS) and verify that the identified study roadway segments would not reach unacceptable LOS thresholds as identified in Table 18-9. Table 18-15 is a summary of the roadway capacity assessments and resulting LOS in the study roadway segments with construction traffic added. Roadways and highways need to access the Dunnigan Pipeline were included in Tables 18-12, 18-13 and 18-15 along with other project features. The 2019 average daily traffic and LOS for these accesses were not available for inclusion and analysis. Table 18-14 provides a summary of the daily trips estimated on a typical day of peak construction for all facilities, including 228 employee trips and 280 truck haul trips for the Dunnigan Pipeline per day.</p> <p>Please see Chapter 18, Navigation, Transportation, and Traffic, including “Impact TRA-1: Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities” for information about numbers of construction trips and vehicle miles traveled (VMT) during operation. Section 18.2.1, Project Access Roads, includes a discussion of overall project access and Interstate-5. Conditions of County Road 99W, County Road 8,</p>

		<p>and County Road 90B in Yolo County are included in Section 18.2.1.1.</p> <p>BMP-16, Development and Implementation of a Construction Equipment, Truck, and Traffic Management Plan (TMP), states that the Authority will coordinate with the applicable jurisdictions, including local agencies for local roads, transit providers, and rail operators where applicable, and will provide construction notification procedures for Glenn, Colusa, Yolo, and Tehama Counties' police, public works, fire departments, and other public service providers, and cycling organizations, bike shops, and schools. BMP-12, Development and Implementation of Stormwater Pollution Prevention Plan(s) (SWPPP) and Obtainment of Coverage under Stormwater Construction General Permit (Stormwater and Non-stormwater) (Water Quality Order No. 2022-0057-DWQ/NPDES No. CAS000002 and any amendments thereto), states that during operations and maintenance, Project facilities including, but not limited to, roads (including access roads), other paved and unpaved surfaces, structures, and equipment, will be properly maintained so as to avoid the potential for erosion and sediment/siltation into local waterbodies and in compliance with all applicable federal, state, and local regulations.</p> <p>Table 4-3 identifies that a Transportation Permit will be required from Yolo County. The Authority has assumed that this permit would ensure that roads used for Project construction activities are left in a similar or better condition.</p>
--	--	--

<p>5.c Dunnigan Pipeline- Construction Traffic</p>	<p>The Sites JPA needs to address, preferably through an enforceable agreement with Yolo County, how impacts of soil hauling and other project construction activities on Yolo County roads and infrastructure will be fully mitigated. The Final EIR/EIS mentions a number of possible routes for construction of the Dunnigan Pipeline (including various County roads), but the final routes will need to be identified in coordination with Yolo County’s Public Works Director, along with a binding commitment to reconstruct impacted roads after construction is complete.</p>	<p>Roadways and highways needed to access the Project included in Tables 18-12, 18-13 and 18-15. As described in BMP-16, Development and Implementation of a Construction Equipment, Truck, and Traffic Management Plan (TMP), the Authority will coordinate with the applicable jurisdictions, including local agencies for local roads, transit providers, and rail operators where applicable, and will provide construction notification procedures for Glenn, Colusa, Yolo, and Tehama Counties’ police, public works, fire departments, and other public service providers, and cycling organizations, bike shops, and schools.</p> <p>Table 4-3 identifies that a Transportation Permit will be required from Yolo County. The Authority has assumed that this permit would ensure that roads used for Project construction activities are left in a similar or better condition.</p>
<p>5.d Dunnigan Pipeline- Construction Traffic</p>	<p>The Final EIR/EIS’s analysis of general truck traffic is similarly devoid of much analysis. It states, on page 18-19, that a vehicles miles traveled (VMT) analysis was not necessary “because a qualitative assessment indicated that there would not be construction VMT impacts.” We were unable to locate the qualitative assessment referenced in the Final EIR/EIR, other than simply surmising that construction workers and other trips “are effectively replacing other trips” to other projects, that could be even longer. Under that logic, a VMT analysis would be unnecessary for any project because every trip -- whether for recreational traffic or construction traffic -- is always a replacement for another trip. And even if the Final EIR/EIS intended to rely on such a theory, the analysis</p>	<p>Please see Chapter 18, Navigation, Transportation, and Traffic, Tables 18-11, 18-12, 18-14, and 18-15 for detailed information regarding Dunnigan Pipeline construction trips by type (employee commutes vs. truck hauls) and impacts on local roadways by location.</p> <p>The Final EIR/EIS appropriately addresses construction VMT as an Air Quality, GHG Emissions and Energy issue and not as a Transportation issue. VMT associated with construction trips is captured in Chapter 20, Air Quality, Chapter 21, Greenhouse Gas Emissions, and Chapter 17, Energy. Mitigation</p>

	<p>would have to be backed by evidence, not conjecture, about the number and distance of trips that construction workers, equipment, and materials would make absent the project. We expect that such an econometric analysis would be quite difficult to perform without extensive data about the regional construction industry, the projects that would be built during the same period, and the travel costs if the project were not undertaken. Rather than rely on such an untested and unsupported theory based on a hypothetical counter-factual, however, the transportation chapter for the Final EIR/EIS should provide the VMT generated by the construction activities and disclose them for public review.</p> <p>Nor should the Final EIR/EIS omit this analysis on the basis of SB 743 and CEQA Guidelines § 15064.3, as is implied under Impact TRA-2. Section 15064.3 states, “[g]enerally, vehicle miles traveled is the most appropriate measure of transportation impacts. For the purposes of this section, ‘vehicle miles traveled’ refers to the amount and distance of automobile travel attributable to a project.” By using the word “generally,” Section 15064.3 acknowledges that automobile VMT alone may not always be the most appropriate measure of transportation impacts. The legislative intent of SB 743, and the associated CEQA Guidelines Section 15064.3, was to ensure that lead agencies include the appropriate analysis of VMT from infill projects in transit priority areas. However, this is no infill project; it is an extensive public works project that will generate extensive VMT. Truck trips associated with hauling construction materials and equipment are a significant concern that could – and should -- be analyzed in the Final EIR/EIS.</p>	<p>Measure GHG-1.1 would reduce construction worker VMT through ride-sharing measures.</p> <p>SB 743 does not apply to construction truck traffic and does not require quantification of construction worker VMT.</p>
--	--	---

<p>5.e Dunnigan Pipeline- Construction Traffic</p>	<p>It appears that the Final EIR/EIS did indeed consider the VMT from truck trips generated by the project in Chapter 20 on greenhouse gas (GHG) emissions, but we cannot verify the information. Appendix 20A shows the general methodology as taking hauling into account. The Final EIR/EIS says on page 21-4, “Modeling assumptions are provided in Appendix 20B, Air Quality and GHG Analysis Data.” On the Sites EIR/EIS website, however, Appendix 20B is not included, and we were not able to identify the modeling assumptions and data elsewhere to verify whether construction trips were considered in the GHG analysis. We do note that the emissions for initial construction were amortized over 30 years, which appears to minimize the project's immediate impacts. These matters should be clarified before the Final EIR/EIS is finalized.</p>	<p>Risk to human health resulting from emissions are included in Chapter 20, Air Quality, and in Appendix 20C. Overall, construction is expected to occur from 2024 to 2029, which is reflected in the modeling. Risks to receptors were calculated assuming exposure during the entire construction period using the maximum year of construction emissions. Table 20C-6 summarizes the construction periods, between 2 and 5 years, by modeled location. The models quantify different aspects of air quality, including regional mass emissions, localized concentrations, and health risks. Please see Section 20.3, Methods of Analysis, for additional information regarding air quality methods and modeling.</p> <p>Construction of the Project would generate emissions of GHGs, including CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, and SF<sub>6</sub>. The combustion exhaust GHG emissions modeled in the EIR/EIS are based on Project-specific construction data (e.g., schedule, construction equipment and truck inventory) provided by the Project engineering team and a combination of emission factors and methodologies from the California Emissions Estimator Model (CalEEMod), version 2016.3.2; CARB’s Emissions Factors (EMFAC) model (EMFAC2017) ; the U.S. Environmental Protection Agency’s (USEPA) AP-42 Compilation of Air Pollutant Emission Factors (AP-42); and other relevant agency guidance and published literature (U.S. Environmental Protection Agency 2021b). Annual GHG emissions were quantified based on concurrent construction</p>
--	--	--

		<p>activity. Please see Chapter 21, Greenhouse Gas Emissions.</p> <p>The Appendix 20B was not used in the EIR/EIS, and the reference to 20B, Air Quality and GHG Analysis Data, in Chapter 21 is incorrect. Assumptions about construction are included in Appendix 2C, Construction Means, Methods, and Assumptions, and air quality monitoring assumption are included in Appendix 20C, Ambient Air Quality and Health Risk Analysis Technical Report.</p> <p>Chapter 18, Navigation, Transportation, and Traffic, provides a summary of the daily trips, including employee trips and truck haul trip estimated on a typical day of peak construction for all facilities.</p>
<p>6.a Dunnigan Pipeline- Inconsistent Language Regarding Releases into Colusa Basin Drain and Yolo Bypass</p>	<p>The Final EIR/EIS contains vague and inconsistent language regarding releases to the Colusa Basin Drain and into the Yolo Bypass, including which entity/ies are responsible for managing such releases once the project is operational. At pp. 1-7, the Final EIR/EIS describes a benefit agreement for ecosystem improvements to be administered by the California Department of Fish and Wildlife. But the terms of these agreements are not described in the Final EIR/EIS, let alone analyzed, and it is not clear whether these agreements will even cover releases into the Yolo Bypass as opposed to other ecosystem uses. Nor is there any other detail on which entity /ies will be responsible for managing such releases or, critically, how various assumptions regarding the timing and extent of releases into the Yolo Bypass will be implemented overtime, including (a) how oversight will occur, (b) whether the assumptions will later be</p>	<p>It is anticipated that potential water releases for ecosystem benefits under Proposition 1 would be provided by entering a contract with CDFW. Collaboration between the Authority and CDFW would ensure releases of ecosystem water are scheduled to address real-time conditions and needs. While the exact terms of such agreements are not yet available, such a level of details is not necessary to ensure planning level analysis of potential Project impacts. Please refer to Master Response 2, Alternatives Description and Baseline regarding the adequacy of the Project description and CEQA/NEPA requirements. The Authority would be responsible for managing releases, in coordination with the appropriate resource agencies, as would be the case for instance for ecosystem benefit water.</p>

	<p>expressed as binding and enforceable commitments, and (c) whether increased maintenance or other impacts of affected facilities, such as the Tule Canal and Toe Drain, will be necessary.</p>	<p>Please refer to Chapter 5, Surface Water Resources, and associated appendices, for details regarding the potential changes in hydrology resulting from Project operations, including releases to Yolo Bypass. Appendix 5A1, Model Assumptions, includes details regarding deliveries of ecosystem benefit water. The hydraulic modeling results serve as the basis for the impact analyses subsequently presented in each resource chapter and for the fully disclosed impact determinations.</p>
<p>6.b Dunnigan Pipeline- Inconsistent Language Regarding Releases into Colusa Basin Drain and Yolo Bypass</p>	<p>Of greatest concern to the County, the Final EIR/EIS is replete with vague and inconsistent language regarding the timing, volume, and purpose of releases into the Yolo Bypass. At p. 2-77, text addressing releases into the Colusa Basin Drain and the Yolo Bypass states:</p> <p style="padding-left: 40px;">Water releases would generally be made from May to November but could occur at any me of the year, depending on a Storage Partner’s need and capacity to convey water to its intended point of delivery. Water would be released from Sites Reservoir via the I/O Works back through the TRR PGP and into the TRR or back through Funks PGP back into Funks Reservoir. Water released could be used along the GCID Main Canal, along the TC Canal, or conveyed to the new Dunnigan Pipeline and discharged to the CBD under Alternative 1 or 3 or to the Sacramento River under Alternative 2. From the CBD, the water may be conveyed via the Sacramento River or the Yolo Bypass to a variety of locations in the Delta or south of the Delta.</p>	<p>The commenter’s assertion that there is ambiguity regarding how the Project will be operated is unsupported by the information presented throughout the EIR/EIS, including in Chapter 2 (see pp. 2-86 through 2-88), Project Description and Alternatives, in the section titled “Releases from Sites Reservoir.” Please also note that Chapter 2 provides a general description of operations. More details regarding the timing, volume, and purpose of releases into the Yolo Bypass can be found in Chapter 5, Surface Water Resources, and associated appendices, which discusses potential changes in hydrology resulting from Project operations, including releases to Yolo Bypass, as modeled using CALSIM II. Tables 5-20 and 5-21 provide ample details regarding the expected timing and volume of releases to the Yolo Bypass and potential impacts of the Project on total Yolo Bypass flow, respectively. Table 5-30 includes information about simulated Sites water supply deliveries for Yolo Bypass Habitat Water Supply. Table 5-32 presents CALSIM II modeled flood flows for the NPA and the Project Alternatives, including flows through the Yolo Bypass. These hydraulic modeling results serve</p>



	<p>In effect, this language seems to say that anything is possible. It is hard to reconcile this language with other provisions of the Final EIR/EIS that appear to contemplate much more limited releases into the Yolo Bypass. This overall ambiguity in the description of intended project operations prevents the County from understanding and commenting meaningfully on the likely environmental consequences of Project operations on existing uses in the Yolo Bypass, including agriculture, recreation, and environmental education.</p>	<p>as the basis for the impact analyses and determinations subsequently presented in each resource chapter.</p> <p>The EIR/EIS provides an appropriate level of detail for planning level analysis as required by CEQA and NEPA.</p>
<p>6.c Dunnigan Pipeline- Inconsistent Language Regarding Releases into Colusa Basin Drain and Yolo Bypass</p>	<p>Similarly concerning is language on p. 5-36, stating: Sites Reservoir releases to the Sacramento River (either through CBD via the Dunnigan Pipeline or directly from the Dunnigan Pipeline) are expected to be greatest during dry conditions, with average releases of approximately 350–580 cfs during June through August of Critically Dry Water Years (Table 5-19), with releases reaching a maximum of 1,000 cfs during some months (Chapter 2). Releases to the Sacramento River would be somewhat higher during Dry Water Years than Critically Dry Water Years due to greater storage in Sites Reservoir, with average releases of approximately 560–830 cfs during June through August (Table 5-19), and releases persisting at higher levels through November relative to Critically Dry Water Years. Sites Reservoir releases to Yolo Bypass would be greater during Wet Water Years than during Critically Dry Water Years (Table 5-20), with releases reaching 380–446 cfs during August and September of Wet</p>	<p>The first paragraph cited by the commenter, which mentions releases potentially reaching a maximum of 1,000 cfs during summer months, refers to releases made directly to the Sacramento River through the Knights Landing Outfall Gates. Such releases would not be conveyed through the Yolo Bypass as suggested by the comment.</p> <p>Similarly, the commenter seems to be confusing the anticipated timing of release discussed for the Sacramento River in the first paragraph cited (June through August and potentially persisting through November) with what is anticipated for releases made through the Yolo Bypass, as summarized in the second paragraph cited (mostly August through October), which is consistent with the description of ecosystem benefit water elsewhere in the EIR/EIS. The assertion that the EIR/EIS is lacking a stable and accurate depiction of how the Dunnigan pipeline will be operated is not supported by the information provided throughout Chapter 2, Project Description and Alternatives, and Chapter 5, Surface Water Resources.</p>

	<p>Water Years. Percent change in total Yolo Bypass flows is expected to be large during August through October because, during this time, Sites would be releasing habitat water to the Yolo Bypass, and existing Yolo Bypass flows are generally low during these months (Table 5-21). Small percent reductions in Yolo Bypass flows are expected during the rainy season as a result of the diversions to Sites Reservoir storage (Table 5-21)</p> <p>This text raises at least two specific concerns. First, if Alternative 1 or 3 is approved as the final project, it would seem that releases of “a maximum of 1,000 cfs during some months” will be solely feasible through the Yolo Bypass. Yet as the Final EIR/EIS acknowledges elsewhere, the Tule Canal and Toe Drain are used for agricultural irrigation and drainage in the summer and early fall and those features have limited capacity for additional releases from the Dunnigan Pipeline and Colusa Basin Drain. Even setting aside the existing uses of the Tule Canal and Toe Drain, the capacity of those features is constrained in some locations to only 200-300 cfs (as noted in the Final Environmental Impact Report/Environmental Impact Statement for the Big Notch Project, discussed elsewhere in the Sites Final EIR/EIS) and the releases discussed in the Final EIR/EIS could easily overwhelm these canals and inundate nearby agricultural land.</p> <p>Second, the timing of releases described in this paragraph (June through August, and possibly through November) is at odds with the discussion of timing elsewhere in the document, which is typically limited to the months of August-October. This</p>	<p>As described on page 6-71, the document states:  The intent of the releases from Sites to the Yolo Bypass during this period is to transport nutrients and food sources for fish species in the Delta. If the water inundates floodplain areas (i.e., areas outside existing channels), the food would remain on the floodplain and fail to move into the Delta. As such, Sites Reservoir would be operated to maintain flows within the existing Toe Drain, Tule Canal, and other channels, and adjustments in operations would be coordinated between the Authority and parcel owners using the existing Yolo Bypass monitoring network. Because these flows would generally be contained within the Yolo Bypass channels without spreading across the bypass floodplain, water temperatures within the bypass would not be expected to increase as a result of the habitat flows.</p> <p>No flows through the Yolo Bypass would result in overbank flows as this would not result in the ecological purposes that this flow is intended to achieve. The Authority recognizes the need to coordinate with other agencies and landowners on use of the Tule Canal and Toe Drain to ensure that this is the case.</p> <p>The Authority has recently established the Lower Colusa Basin Drain System Working Group to work through the complex network of infrastructure and waterways that involves multiple partner agencies,</p>
--	---	---

	<p>language, taken together with the text discussed above on p. 2-77, further illustrates the lack of a stable, accurate description of how the Dunnigan Pipeline will be operated to convey water into the Yolo Bypass for water deliveries, ecosystem purposes, or both.</p>	<p>private landowners, and a long history of cooperation and water operations to address questions operations of facilities, flowage rights, and how best to coordinate with other districts/operators and landowners in the future Sites Project operations. Yolo County has been invited to participate in this group and the Authority appreciates the counties participation to date. While the Lower Colusa Basin Drain System Working Group is focused on the Colusa Basin Drain downstream of the Balsdon Weir, the Knights Landing Ridge Cut, the Knights Landing Outfall Gates, and the Wallace Weir, extending into the Yolo Bypass Tule Canal and Toe Drain is a logical extension of the group and would work to address many of the questions that Yolo County raises.</p>
<p>7.a Dunnigan Pipeline- Inconsistent Language Regarding Land Use Impacts of Operations</p>	<p>The Final EIR/EIS contains inconsistent language regarding potential land use and agricultural impacts of releases into the Yolo Bypass. As indicated in footnote 2, some language in the Final EIR/EIS indicates the potential for “inundation of low-elevation parcels in the upper Yolo Bypass (north of the I-80 causeway) due to August-October ecosystem releases.” The precise impact appears to be quantified at p. 11-122, which states (with emphasis added):</p> <p style="padding-left: 40px;">The modeling results of Yolo Bypass inundated suitable habitat show considerable increases in mean inundation acreage under Alternatives 1, 2, and 3 relative to the NAA during August through October, including up to 805 acres for September of Above Normal Water Years under Alternatives 1A and 1B (Table 11-13). These increases are the result</p>	<p>The excerpt from Chapter 6 (page 6-71), Surface Water Quality mentioned in footnote 2 of the comment specifically refers to the North Delta Flow Actions that are not part of the Project. These flows are mentioned because they provide similar flows into the Yolo Bypass compared to what the Project could release.</p> <p>But, as noted by the comment itself, the EIR/EIS on page 6-71 also states that the operations of the Project would be adjusted through coordination between the Authority and parcel owners to ensure flows remain within the existing Toe Drain, Tule Canal, and other channels, thus avoiding the “limited inundation of low-elevation parcels in the upper Yolo Bypass” observed as part of the North Delta Flow Actions.</p>

	<p>of planned agricultural flow releases from Sites Reservoir. The releases reach the Yolo Bypass via the CBD, entirely bypassing the Sacramento River. For this reason and because of the months in which they occur, these summer-fall increases in inundated acreage have negligible effects on juvenile Chinook salmon or steelhead, including winter-run.</p> <p>If this is accurate and the increased acreage includes land outside the Tule Canal and Toe Drain features, much more information on the modeled inundation footprint and related impacts is needed. However, the County notes that the Final EIR/EIS also contains conflicting information that indicates no impacts are predicted. For example, at p. 6-71, the document states:</p> <p>The intent of the releases from Sites to the Yolo Bypass during this period is to transport nutrients and food sources for fish species in the Delta. If the water inundates floodplain areas (i.e., areas outside existing channels), the food would remain on the floodplain and fail to move into the Delta. As such, Sites Reservoir would be operated to maintain flows within the existing Toe Drain, Tule Canal, and other channels, and adjustments in operations would be coordinated between the Authority and parcel owners using the existing Yolo Bypass monitoring network. Because these flows would generally be contained within the Yolo Bypass channels without spreading across the bypass floodplain, water temperatures within the</p>	
--	---	--

	<p>bypass would not be expected to increase as a result of the habitat flows.</p> <p>Similarly, text at p. 15-36 says: As discussed under Impact AG-4, agricultural lands would not be affected during the growing season as a result of inundation at Yolo Bypass or the CBD for Alternative 1, 2, or 3. Therefore, Alternatives 1, 2, and 3 would not result in temporary or permanent impacts as a result of changes in water regime at Yolo Bypass and CBD.</p>	
7.b Dunnigan Pipeline-Inconsistent Language Regarding Land Use Impacts of Operations	<p>Finally, the Final EIR/EIS does not describe the easement rights or other property interests necessary to enable the Yolo Bypass releases described therein. Does the agency/ies responsible for such releases intend to use the easement rights that the California Department of Water Resources is currently seeking to acquire through eminent domain for the Big Notch Project? Some discussion on this point should be included to ensure affected Yolo Bypass landowners (as well as the County and other interested local agencies, such as reclamation districts) understand how the project could affect their property rights.</p>	<p>As described in Chapter 15, Agriculture and Forestry Resources, under Impact AG-4, agricultural lands in the Yolo Bypass would not be inundated as a result of the Project.</p> <p>The Authority is assessing the need for flowage rights and easements for the Tule Canal and Toe Drain. The Authority appreciates that this is important for landowners and others to understand how the project could affect their property rights. The Final EIR/EIS provides a complete analysis of the impacts of additional flows in the Yolo Bypass and the question of property rights, in and of itself, is not an environmental impact.</p>
8.a Dunnigan Pipeline-Capacity	<p>The maximum capacity of the Pipeline is not clearly described. The Final EIR/EIS states that the Pipeline will be operated to convey up to 1,000 cfs, but it does not indicate that this is the maximum conveyance capacity of the facility. In approving the Project or otherwise, the Sites JPA should clarify the maximum conveyance capacity of the Pipeline.</p>	<p>The EIR/EIS includes information and data on the location, design, schedule, and operation for all Project components for each of the alternatives evaluated with sufficient detail to analyze the Project impacts and sufficient detail regarding the Project for decision makers to understand the alternatives being evaluated.</p>

		<p>Specifics related to the Dunnigan Pipeline are included in EIR/EIS Chapter 2, Project Description and Alternatives. This includes the following text, “The conveyance through the Dunnigan Pipeline to the CBD would use gravity (i.e., no pump station) and have a flow up to 1,000 cfs.” This indicates a maximum capacity and is reflected in the analyses.</p>
--	--	---

## Attachment C

### Sites Reservoir Final EIR/EIS Errata

The Authority has prepared this Errata sheet to clarify and correct information in the Final EIR/EIS. This information merely clarifies, amplifies, or makes insignificant modifications in the Final EIR/EIS. The Authority has reviewed the information in this Errata sheet and has determined that it does not change any of the findings or conclusions of the Final EIR and does not constitute “significant new information” pursuant to CEQA Guidelines Section 15088.5.

The changes shown below use strike-out for text that is removed and double underline for text that is added to the Final EIR/EIS.

#### Changes to Final EIR/EIS Text

Volume 1, Chapter 23, *Tribal Cultural Resources*, Page 23-18:

~~As a~~No specific written comments have been received from either as of late June 2023, ~~the Authority sent letters to~~ the Yocha Dehe Wintun Nation or the ~~and~~ Cachil Dehe Band of Wintun Indians to date in August 2023 to inform them of the Authority’s intent to consider certification of the EIR for the Project with a significant impact on an identified tribal cultural resource at its September 2023 meeting, concluding the AB 52 process for the Project. The Cachil Dehe has submitted written correspondence generally suggesting that a traditional cultural landscape exists in the Project area. General information has been provided on the connection between Native People and natural landscapes, but no detailed information has been provided to allow for further assessment of these issues under California Public Resources Code Sections 21074(a) and 21074(b). The Authority has offered to fund Cachil Dehe’s direct cost to complete an ethnographic study of the Project Area and develop such information. To date, Cachil Dehe has not requested funding for this effort. The Tribe has not proposed any specific modifications to alternatives or new alternatives, any specific comments on the Project’s analysis of impacts to tribal cultural resources, or any specific comments on proposed mitigation measures for adoption as part of the MMRP for the Project. Regardless, this Final EIR/EIS reflects the Authority’s determination that tribal cultural resources are within and surrounding the Project footprint and will be significantly affected by the Project.

A CEQA lead agency may also certify an EIR when the lead agency has complied with AB 52 and the California Native American Tribe has not requested consultation within 30 days. The Paskenta Band of Nomlaki Indians did not request consultation within this timeframe and are not formally consulting on the Project pursuant to AB 52. ~~The Authority sent a letter to the Paskenta Band of Nomlaki Indians in August 2023 to inform them of the Authority’s intent to consider certification of the EIR for the Project with a significant~~

~~impact on an identified tribal cultural resource at its September 2023 meeting, concluding the AB 52 process for the Project.~~

Volume 3, Chapter 2, *Indices of Commenters and Index of Primary Forms*, Table 2-4. Index 3: *Local/Regional Agencies and Elected Officials*, Page 2-2:

**Table 2-4. Index 3: Local/Regional Agencies and Elected Officials**

<b>Letter Number</b>	<b>First Name</b>	<b>Last Name</b>	<b>Title</b>	<b>Organization Name</b>	<b>Organization Type</b>
17	Kenny	Cohen	Fire Chief	Maxwell Fire Protection District	Town Government Agency/Elected Official
18	Kurt	Chambers	General Manager	Maxwell Public Utility District	Regional/Other Governmental Agency
<u>32</u>	<u>Robert</u>	<u>Kunde</u>	<u>Engineer-Manager</u>	<u>Wheeler Ridge-Maricopa Water Storage District</u>	<u>Local Agency</u>
58	Kenny	Cohen	Fire Chief	Maxwell Fire Protection District	Town Government Agency/Elected Official
69	Gary	Evans	Vice-Chair, District 4	Colusa County Board of Supervisors	County Government Agency/Elected Official
73	Osha	Meserve	Legal Representative	Local Agencies of the North Delta	Local Agency
82	Jose	Setka	Environmental Affairs Officer	East Bay Municipal Utility District	Regional Agency
<u>89</u>	<u>Rhonda</u>	<u>Lucas</u>	<u>Attorney</u>	<u>Maxwell Unified School District</u>	<u>Local Agency</u>
<u>90</u>	<u>Lucinda</u>	<u>Shih</u>	<u>Water Resources Manager</u>	<u>Contra Costa Water District</u>	<u>Local Agency</u>

The above individuals and organizations added to Table 2-4 are removed from the corresponding table in Volume 3, Chapter 2, *Indices of Commenters and Index of Primary Forms*, Table 2-5. Index 4: Non-Governmental Organizations and *Table 2-6. Index 5: Individuals*, Pages 2-3 through 2-12.



# Joint Reservoir Committee and Authority Board Meeting

Agenda Item 2.1: Consideration of Project  
Approval and Related CEQA Actions

November 17, 2023



# Requested Action Under Consideration

Proposed Board Resolution No.2023-02 providing for the following actions:

1. Certify the Final EIR for the Project under CEQA;
2. Adopt CEQA Findings;
3. Adopt the Statement of Overriding Considerations;
4. Adopt the Mitigation, Monitoring and Reporting Program;
5. Approve the Project as described in the CEQA Findings;
6. Direct the Executive Director to File a NOD and pay all related fees and authorize the Executive Director to certify the CEQA record of proceedings

# Process for Today's Activities

1. Staff presentation
2. Public comments
  - In the room
  - Virtual
3. Reservoir Committee/Authority Board discussion and deliberation
4. Reservoir Committee recommends action
5. Authority Board takes action

# How to Make Public Comments

- In Person
  - Written: Provide to Marcia
  - Verbal: Complete comment card, provide to Marcia
- Virtual
  - Written: email to [info@sitesproject.org](mailto:info@sitesproject.org)
  - Virtual: Raise your virtual hand, put name and email in chat
  - Phone: Wait until prompted, will be taken last
- If you represent a Tribal government or are/represent an elected official, please let Marica know or add in chat

**Comments limited to 3 minutes and must be relevant to the CEQA process**

# Staff Presentation

Ali Forsythe



# Final EIR/EIS Released on November 2

- Final EIR/EIS
  - Authority CEQA lead agency
  - Reclamation NEPA lead agency
- Released on November 2, 2023
  - Posted on Authority, Reclamation and State Clearinghouse websites
  - Press release
  - Federal Register notice on November 3
- Notice provided to landowners and to public agencies that commented on the Revised Draft EIR



# Final EIR Culminates Over 20 Year of Effort

- DWR initiated CEQA process 2001 with NOP
- Authority issued supplemental NOP in 2017
- Draft EIR/EIS released in 2017
- Authority undertook value planning process
  - Revisions made to the Project to avoid and minimize impacts and improve affordability
- Revised Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS) released in 2021
  - Completely revised and recirculated analysis
  - 101 comment letters, approximately 1,000 comments

# Final EIR Provides a Robust Analysis

- Final EIR/EIS
  - Volume 1 and 2 – Revision to the RDEIR/SDEIS
  - Volume 3 – Comments and responses
- Key changes between RDEIR/SDEIS and Final EIR/EIS
  - Preferred Alternative is now Alternative 3
  - Revisions to diversion criteria and associated modeling to be more protective of fish
  - Corrections or clarifications needed in response to comments throughout
    - Notably, more expansive and extensive analysis of water quality
- No new or substantial greater impacts identified that would require recirculation
- Final EIR/EIS prepared in accordance with CEQA and the CEQA Guidelines



# Extensive Outreach Efforts Conducted

- Local community and landowners
  - Local Community Working Group - Broad cross-section of local agencies and community organizations in the Colusa, Glenn, and Yolo county areas
  - One-on-one and small group discussions with various local and regional agencies and landowners in and around the Project area
- Non-governmental organizations
  - Numerous small group meetings and one-on-one discussions
  - Topics of discussion covered the areas these groups expressed concerns about
- CEQA responsible and NEPA cooperating agency
  - Reviewed administrative draft versions of the RDEIR/SDEIS and Final EIR/EIS chapters, appendices, and responses to comments
- Joint Reservoir Committee and Authority Board meetings
  - Additional public opportunity to comment

# The Authority Has Complied with AB 52 Requirements

- Outreach efforts to:
  - Five tribes with traditional and cultural affiliation with the Project area
  - Tribes outside of the Project area that could be affected by changes in river flows
- AB 52 Consultation with Cachil Dehe Band of Wintun Indians and Yocha Dehe Wintun Nation – responded to the 2017 notification of the Project
  - Ongoing consultation efforts and meetings since 2017
  - Provided existing studies and data on known cultural resources
  - No specific comments from consulting Tribes to date
- Recently began discussions with Paskenta Band of Nomlaki Indians
- Commitment to work throughout the life of the Project to better understand and respectfully incorporate and honor the Tribes from their perspective

# Key Steps and What Each Means

1. Certification of the Final EIR
  - Completed in compliance with CEQA
  - Board has reviewed and considered the information contained in the Final EIR
  - Final EIR reflects the Authority's independent judgement and analysis
2. Adoption of the CEQA Findings
  - Environmental review process and contents of the Final EIR
  - Significant environmental effects and mitigation measures
  - Alternatives considered and the reasons for rejecting alternatives
3. Adoption of the Mitigation Monitoring and Reporting Program (MMRP)
  - Committing to implement all of the mitigation measures in the MMRP
  - Consistent with SB 149, making a binding commitment to the Governor to implement the mitigation measures related to disadvantaged communities
  - Mitigation measures reflected in the MMRP are the same as in the Final EIR

# Key Steps and What Each Means (cont)

4. Adoption of the Statement of Overriding Considerations
  - Reasons for why the various social, economic, environmental, and other benefits of the Project outweigh the significant and unavoidable effects
5. Project Approval
  - Deciding whether, and if so how, to approve and carry out the Project
  - The Project as defined for approval in the findings consists of Alternative 3 as evaluated in the Final EIR with the TRR West location
  - If approved, the Authority would then be able to carry out all of the Project activities
6. Direction to the Executive Director
  - To file the Notice of Determination and pay all associated fees
  - Authorizing to certify the record of proceedings consistent with CEQA and SB 149

***All steps included in Resolution 2023-02. Adopting the Resolution takes all of these steps in the correct order.***

# The Reservoir Committee and Authority Board Has Been Preparing All Year

- Eight public briefings that have been provided since the beginning of 2023
- Covered all aspects of the Final EIR and the action today
- Public also had an opportunity to make comments to the Board at each of these briefings
- Board input received during these briefing was considered in preparing the final documents

# Governor's Certification Under SB 149

- On November 6, 2023, California Governor Newsom certified the Project as an infrastructure project qualifying for judicial streamlining
- Requires the Authority to make certain public notices within 10 days of the certification – completed
- Authority must make a binding commitment to the Governor to implement specified mitigation measures related to disadvantaged communities
  - Would be accomplished by the Authority adopting the findings and MMRP
- Authority must also certify the record of proceedings within 5 days of approval of the Project
  - Action today delegates this to the Executive Director

# Comments Received After the Release of the Final EIR/EIS

- Two recent letters relevant to the Project's CEQA analysis
  - Cachil Dehe Band of Wintun Indians (Colusa Community Indian Council)
  - County of Yolo
- Raise concerns that have already been addressed in the Final EIR or the CEQA record of proceedings

# Errata and Corrections

- Two minor corrections to Final EIR
  - Corrected Chapter 28 to reflect that letters were not sent to the Tribes in August
  - Corrected Volume 3, Response to Comments, to adjust categories for a few commentors



# Public Comments

Sara Katz

# How to Make Public Comments

- In Person
  - Written: Provide to Marcia
  - Verbal: Complete comment card, provide to Marcia
- Virtual
  - Written: email to [info@sitesproject.org](mailto:info@sitesproject.org)
  - Virtual: Raise your virtual hand, put name and email in chat
  - Phone: Wait until prompted, will be taken last
- If you represent a Tribal government or are/represent an elected official, please let Marica know or add in chat

**Comments limited to 3 minutes and must be relevant to the CEQA process**

# Public Comment Is Now Closed

- Public comment period for the Sites Project EIR is now closed
- No additional comments will be accepted

# Reservoir Committee and Authority Board Deliberations

# Requested Action Under Consideration

Proposed Board Resolution No.2023-02 providing for the following actions:

1. Certify the Final EIR for the Project under CEQA;
2. Adopt CEQA Findings;
3. Adopt the Statement of Overriding Considerations;
4. Adopt the Mitigation, Monitoring and Reporting Program;
5. Approve the Project as described in the CEQA Findings;
6. Direct the Executive Director to File a NOD and pay all related fees and authorize the Executive Director to certify the CEQA record of proceedings

