

DRAFT

Brief Outline on Development of a Memorandum of Agreement between the Sites Project Authority and Native American Tribes Consulting on the Sites Reservoir Project under AB52

October 18, 2022

Purpose and Need

Mitigation measures for addressing significant impacts to tribal cultural resources by the Sites Reservoir Project (Project) have been identified but need to be refined and further developed through consultations between tribes formally consulting on the Project pursuant to AB 52 (the Yocha Dehe Wintun Nation [Yocha Dehe] and Cachil Dehe Band of Wintun Indians [Cachil Dehe]) and the Sites Project Authority (Authority). Although the Authority and Yocha Dehe have been working diligently on consultation efforts, activities have taken longer than expected for a variety of reasons including delays in getting agreement from DWR to release data, formatting data for use by the tribe, tribal access to Project lands to review areas of cultural significance, and the overall challenges of workload balancing during COVID restrictions. The Authority is proposing to complete the Final Environmental Impact Report for the Project in May 2023, and it is recognized by all parties that identification of tribal cultural resources within the Project footprint and preparation of appropriate mitigation and treatment measures cannot be concluded by that time.

Preparation of a Memorandum of Agreement (MOA) would formalize the collaborative partnership between the Authority, Yocha Dehe, Cachil Dehe, and the additional three tribes that are traditionally or culturally affiliated with the Project area to continue to work together to identify tribal cultural resources, and methods to mitigate impacts to and manage tribal cultural resources. The partnership defined by the MOA would allow conclusion of consultation under AB 52, while providing a framework for continued collaboration between the Authority and the tribes during Project planning, implementation, and operations.

Potential MOA Preamble topics:

- Identification of participants in the MOA
 - Yocha Dehe
 - Cachil Dehe
 - Authority
 - Invite Kletsel Dehe (Cortina Rancheria Band of Wintun Indians), Paskenta Band of Nomlaki Indians, and Grindstone Indian Rancheria of Wintun-Wailaki Indians
- Mitigation Measures in the EIR
- Acknowledgement that participation in the MOA by Yocha Dehe and other tribes does not imply their approval of the project
- Formalization of collaborative partnership

Potential MOA Stipulations topics:

- Continuing consultation/engagement with Tribal partners
- Confidentiality of information provided by the Tribes
- Continue tribal cultural resources identification

- Various administration stipulations

Potential identification topics for discussion

- Interests/concerns of the Tribes
- Compensation plan/agreements
- Confidentiality
- Ethnographic Study
 - Work with tribal elders to document locations of significance
 - Compensation for informants
 - Hiring tribal members to assist with elder interviews and research

Potential topics for avoidance, minimization and mitigation discussion

- Interests/concerns of the Tribes
- Treatment of burials within the Project footprint, including identification of permanent, private and secure areas for reburial of human remains in perpetuity
- Participation in future archaeological studies (survey, testing, data recovery)
 - Monitoring
 - Hiring tribal members as archaeological trainees
- Curation of recovered materials during archaeological studies
- Ethnobotanical studies (could be included under Ethnographic study)
- Tribal participation in developing trails, interpretive signage, etc. for recreation
- Tribal participation in developing a museum/visitor center, if one is developed



Janis Offermann <janis@horizonh2o.com>

Upcoming Sites Reservoir Meeting on October 31

Janis Offermann <janis@horizonh2o.com>

Tue, Oct 18, 2022 at 12:04 PM

To: Laverne Bill <LBill@yochadehe.gov>

Cc: SReyes-Gutierrez@yochadehe.gov, EHernandez@yochadehe.gov, Alicia Forsythe <aforsythe@sitesproject.org>, Kevin Spesert <kspesert@sitesproject.org>, Laurie Warner Herson <laurie.warner.herson@phenixenv.com>

Hi, Laverne

At our last Sites Reservoir meeting with the Authority on August 1, Ali brought up the Authority's concern about the ability to complete AB 52 consultations within the short period of time remaining before the EIR is finalized. She proposed preparing a MOU with Yocha Dehe that would give you more time to analyze data and identify tribal cultural resources and impacts to the resources. The MOU would allow the Authority to continue to work with you on assessing and protecting tribal cultural resources following finalization of the environmental document. It would allow the process to move forward without rushing, but would allow the Authority to state that AB 52 consultation was completed under CEQA. At that time, you noted that you would take it under consideration, but that you would have to talk with the tribal council and others.

The Authority continues to be concerned about completing AB 52 consultation prior to the scheduled final EIR, and would like to continue discussions with you about preparing a MOA in order to formally establish a collaborative relationship with Yocha Dehe to address tribal cultural resources. [Note: We did a little research and a MOA is more legally binding than a MOU, so we thought that would be more appropriate.] Attached is a brief document that describes the purpose and need for the MOA and proposes some topics to be addressed. Clearly, this is a draft that would require significant input by Yocha Dehe, but we are hoping that you will give it some consideration before our meeting at the end of the month.

Please don't hesitate to give me a call if you have any questions. We look forward to meeting with you in a couple of weeks.

janis

Janis Offermann, MA, RPA

Cultural Resources Practice Lead

Horizon Water and Environment

1801 7th Street, Suite 100

Sacramento, CA 95811

530.220.4918



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