**State of California
Department of Fish and Wildlife**

**Memorandum**

**Date:** March 10, 2023

**To:**Michelle Selmon
 Lands Program Manager
 Department of Fish and Wildlife

**From:** Jeffrey Shu
 Wetland Water Resources Coordinator

**Su****bject:** **Sutter National Wildlife Refuge Lift Station Project Tribal Monitoring**

This memorandum documents California Department of Fish and Wildlife’s California Environmental Quality Act (CEQA) lead agency consideration of the United Auburn Indian Community of the Auburn Rancheria (UAIC) informing us that tribal monitoring is no longer necessary, a measure 1 California Department of Fish and Wildlife (CDFW) identified in the Sutter National Wildlife Refuge Lift Station Project (Project) Mitigated Negative Declaration (MND) and included in the Mitigation Monitoring and Reporting Plan (MMRP) as TCR-1 when the Project was approved in 2019. CDFW was informed of UAIC’s decision to remove tribal monitoring through email via U.S. Fish and Wildlife Service (FWS) on November 1, 2022. CDFW does not believe removing the tribal monitoring requirement will result in any new significant or substantially more sever environmental effects than previously disclosed in the MND that CDFW adopted in 2019 when it approved the Project as a lead agency under CEQA.

U.S. Bureau of Reclamation (Reclamation) and CDFW are lead federal and state agencies for the National Environmental Policy Act (NEPA) and CEQA, respectively. Reclamation and its partners, the FWS and Ducks Unlimited (DU), are constructing the Project. The Project would further the goals and objectives of the Central Valley Project Improvement Act (CVPIA) Refuge Water Supply Program by improving refuge water availability and capacity for Level 2 and Incremental Level 4 water supplies at the Sutter National Wildlife Refuge (SNWR).

This change to no longer include tribal monitoring for the Project is not expected to cause any new or substantial environmental effects than previously disclosed in the 2019 MND and the 2022 Addendum. Existing mitigation measure (TCR-2) is sufficient to ensure no significant or potentially significant impacts to cultural resources would occur. Accordingly, CDFW staff have determined no additional subsequent or supplemental lead agency review is necessary and that removing TCR-1 from the MMRP CDFW adopted in 2019 is a minor, non-technical change pursuant to CEQA Guidelines section 15164.

CDFW CEQA Lead Agency Timeline, including Tribal Consultation:

May 23, 2018: Completed Record Search of the NAHC Sacred Lands File and List of Native American Tribes provided by the NAHC.

May 29, 2018: Mailed Tribal Notification Letters Pursuant to PRC section 21080.3.1

June 12, 2018: Request from UAIC for AB 52 consultation and recommendations for mitigation measures.

June 12, 2018: Request from Middletown Rancheria to be informed of any tribal resources found during the Project.

June 29, 2019: Notice of Availability for Public Review of Draft Environmental Assessment/Initial Statement (EA/IS) for the Sutter National Wildlife Refuge Lift Station Project

August 18, 2019: Notice of Determination filed as MND and Final EA/IS adopted for the Sutter Lift Station Project

September 26, 2022: Notice of Determination filed for CEQA Addendum to make minor changes to the Monitoring, Mitigation and Reporting Plan (MMRP) for the Project.

October 31, 2022: Conversation between UAIC and Reclamation agreeing that on-site monitoring for tribal resources, during Project ground disturbing activities, is not required.

November 29, 2022: Notice of Determination filed for Restoration Management Permit (RMP-2022-0007-R2)

Two mitigation measures are currently included in the MMRP to avoid impacts to Tribal Cultural Resources:

* TCR-1: A paid tribal monitor shall be present during ground disturbing activities to identify tribal cultural resources if they are uncovered.
* TCR-2: If a tribal cultural resource is encountered during construction activity, all work within 100 feet of the discovery area will stop, and further work will avoid disturbing the tribal cultural resources. Tribal representatives shall be contacted immediately and consulted with to determine appropriate and respectful treatment of the find.

During UAIC’s tribal consultation with CDFW, one of its requests was to implement TCR-1 as part of the Project’s MMRP. As the Project proceeded, UAIC reviewed the Project and determined that TCR-1 was not necessary as the Project site was considered low sensitivity. TCR-2 is still in place to protect any tribal cultural resources should they be uncovered by the Project as originally requested by UAIC and Middletown Rancheria. It should be noted that Reclamation has also accepted the removal of TEC-1 as part of their obligations under NEPA.