

APPENDIX A – NOTICE OF PREPARATION AND COMMENTS RECEIVED



BUTTE COUNTY
DEPARTMENT OF AGRICULTURE / WEIGHTS & MEASURES
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Louie B. Mendoza Jr.
Agricultural Commissioner / Sealer

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**NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT AND
NOTICE OF SCOPING MEETING FOR
BUTTE COUNTY – USDA ANIMAL AND PLANT HEALTH INSPECTION SERVICE -
WILDLIFE SERVICES COOPERATIVE SERVICE AGREEMENT**

NOTICE IS HEREBY GIVEN that BUTTE COUNTY as Lead Agency pursuant to the California Environmental Quality Act (CEQA) has prepared a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) for the following project: Butte County – USDA Animal and Plant Health Inspection Service Wildlife Services Cooperative Service Agreement (proposed project).

Project Location and Setting:

The proposed project is located in Butte County, which is in north-central California at the northern end of the Sacramento Valley, approximately 70 miles north of Sacramento (Figure 1). The county occupies approximately 1,680 square miles, of which approximately 1,636 square miles is land area. Nearly 1,400 square miles of the county consists of lands not under federal or state or other public agency jurisdiction or management. Portions of the Plumas and Lassen National Forests (approximately 212 square miles) are in the county and comprise approximately 13 percent of the county's land area. The county contains a variety of habitats that support many common and special-status wildlife species.

Project Background and Overview:

The U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service-Wildlife Services (APHIS-WS) has an existing integrated wildlife damage management (IWDM) program that it implements throughout California and the rest of the United States to selectively remove individual animals that are non-native or cause damage to property, infrastructure, agricultural or livestock commodities, and public health and safety. The IWDM program does not seek to eradicate any species, regardless of legal status, or result in take that would substantially reduce species populations. APHIS-WS does not target certain species for reduction. For most wildlife damage management, once a damage situation is resolved, APHIS-WS Wildlife Specialists do not continue to remove additional animals unless a problem reoccurs, there are historical problems, and/or an additional request for assistance is made. Removal of animals by lethal methods is only used when other methods of control are not practical or have not been successful. Nonlethal methods are also used or may be recommended to a resource owner or manager.

The IWDM program in Butte County is implemented through a cost-share agreement (CSA) with USDA APHIS-WS, and is subject to Board of Supervisors' approval. Butte County has continuously maintained the IWDM program in its current form with APHIS-WS since at least 1939, with sporadic records for earlier years going back to 1924. It is implemented throughout Butte County, including incorporated cities. The latest annual Board-approved CSA is for fiscal year 2020-2021.

The APHIS-WS Wildlife Specialist(s) provide technical assistance only upon request to resource owners or managers. Technical assistance includes providing technical advice/assistance to resource owners on prevention and/or control techniques; informing and educating interested individuals on how to prevent and reduce wildlife damage on their own; investigating wildlife damage situations to determine the responsible species and evaluate the incident for applicability of prevention and/or control methods; and responding to incidents where wildlife species are threatening public health and safety. In the last 10 years, APHIS-WS performed approximately 1,400 technical assistance activities per year. Some of the response activities resulted in the removal by lethal methods of some common wildlife species that the Wildlife Specialist determined were responsible for agricultural losses or had caused damage to property (e.g., infrastructure) where such damage posed a risk to public safety. Common wildlife mammal species removed in the greatest numbers on an annual basis between 2010 and 2019, the period for which most recent annual data are available, include American beaver (approximately 76 per year), coyote (approximately 11 per year), raccoon (approximately 64 per year), and striped skunk (approximately 200 per year). Some black bear and mountain lion were also removed, but fewer than the aforementioned species (6 per year and 4 per year, respectively). Mountain lion is a specially protected species and may only be taken with a depredation permit from the California Department of Fish and Wildlife. Beaver removals were associated with damage to infrastructure for water conveyance and flood protection systems, which are not preferred beaver habitat. APHIS-WS does not remove beaver dams, lodges, or dens. During the last 10 years, some birds were removed. Pigeon, European starling, and brown-headed cowbird were removed in greatest number (a few thousand), and less than 250 blackbirds were taken. No threatened and endangered mammal or avian species were removed.

Project Objective:

The overall goal of the proposed project is to ensure that wildlife damage management in Butte County for purposes of protecting agricultural resources, public health and safety, and property is performed in a biologically sound, environmentally safe, and accountable manner and in accordance with applicable federal and state laws and regulations.

Project Description:

The proposed project is the ongoing implementation of the IWDM program throughout Butte County for fiscal year 2021-2022 (as operated by APHIS-WS and approved by signature of the CSA) to assist property owners, ranchers, farmers, businesses, private citizens, and local agencies in resolving wildlife damage problems. Activities performed under the IWDM program would be implemented by APHIS-WS Wildlife Specialists in accordance with the regulations, standards, and guidelines of the IWDM program, including its Wildlife Services (WS) Policy Manual, Directives, and standard operating procedures.

Under the proposed project, IWDM services would be provided solely by APHIS-WS personnel and only at the request of the resource owner or manager. As with previous and existing CSAs, Butte County would not decide whether a resource owner or manager should receive assistance, nor would the County be materially involved in conducting any of the IWDM technical assistance efforts or measures to control wildlife damage other than to cost share the financial portion of the program.

The following specific services are provided as a part of the CSA work plan:

- Nonlethal recommendations and technical assistance through demonstration and instruction of wildlife damage prevention and/or control techniques. This may be in the form of site visits by USDA Wildlife Specialists, recommendations for implementing

various nonlethal techniques, and/or providing official USDA pamphlets. Techniques commonly recommended by Wildlife Specialists include exclusion, habitat modification, scare devices, hazing (where safe and legal), and husbandry modifications.

- Direct control activities, which may include but are not limited to:
 - Monitoring, trapping, dispersal, and removal of wildlife known to cause damage to property, livestock, or agricultural crops;
 - Wildlife species identification and verification of property, livestock, crop, or natural resource damage;
 - Wildlife removal when property damage is verified and nonlethal methods have failed or are infeasible;
 - Response to wildlife disease concerns that may be transmitted to pets or livestock.
- Public safety response: When identified by local or state authorities, Wildlife Specialists will assist with trapping or control work targeting wildlife that may endanger public safety. Examples of public safety events where Wildlife Specialists may provide assistance include:
 - Predatory or territorial attacks on people;
 - Unusually behaving and/or otherwise diseased animals;
 - Invading homes by large wildlife;
 - Wildlife presence on school grounds;
 - Wildlife that have become hazards on roadways or landing strips.
- Wildlife Disease Sampling:
 - Wildlife Services conducts wildlife disease sampling surveillance statewide. Opportunistically, Wildlife Services collects disease samples from animals taken during control activities. These samples are tested for diseases that can be transmitted to humans, livestock, and pets.

The IWDM program analyzed in the EIR is not limited by the time frame of the annual CSA for 2021-2022. Potential future renewal of the IWDM program for subsequent terms, which may be annual or for a longer period, is considered a later activity of the proposed project, and is within the scope of the analysis in the Draft EIR. Any future discretionary actions taken by the County necessary to implement the program, as operated by APIHS-WS and approved by signature of the CSA, would need to be evaluated for consistency with the IWDM program and conformance with the analysis included in the EIR.

Probable Environmental Effects/EIR Scope:

The proposed project has the potential to affect wildlife species' populations, and the analysis in the Draft EIR will evaluate project and cumulative impacts on those species as well as habitat supporting both common and special-status species. The Draft EIR will also consider alternatives to wildlife damage management that do not involve the use of lethal methods to remove targeted species. Due to the limited nature of the proposed project, the Draft EIR will not evaluate in detail any of the other topics included in the CEQA Guidelines Appendix G environmental checklist other than biological resources.

Notice of Preparation Availability, Scoping Meeting, and Comment Period:

The NOP is available at the Butte County Agricultural Commissioner's Office (316 Nelson Avenue, Oroville, CA 95965), the Butte County Clerk-Recorder Office (155 Nelson Avenue, Oroville, CA 95965), and online at:

<http://www.buttecounty.net/agriculturalcommissioner/Documents>

There will be a scoping meeting at 3:00 PM on Thursday, March 11, 2021, during the 30-day review period for the NOP. The purpose of the meeting is to solicit the views of agencies as to the appropriate scope and content of the Draft EIR that are germane to your agency's statutory responsibilities or of interest to your organization in connection with the proposed project. County staff and its environmental consultant for the EIR will provide a brief overview of the project and the environmental review process. There will be an opportunity to provide oral comments regarding the scope of the Draft EIR at the scoping meeting.

To comply with COVID-19 restrictions, the meeting will be conducted virtually. To access the meeting online or by phone:

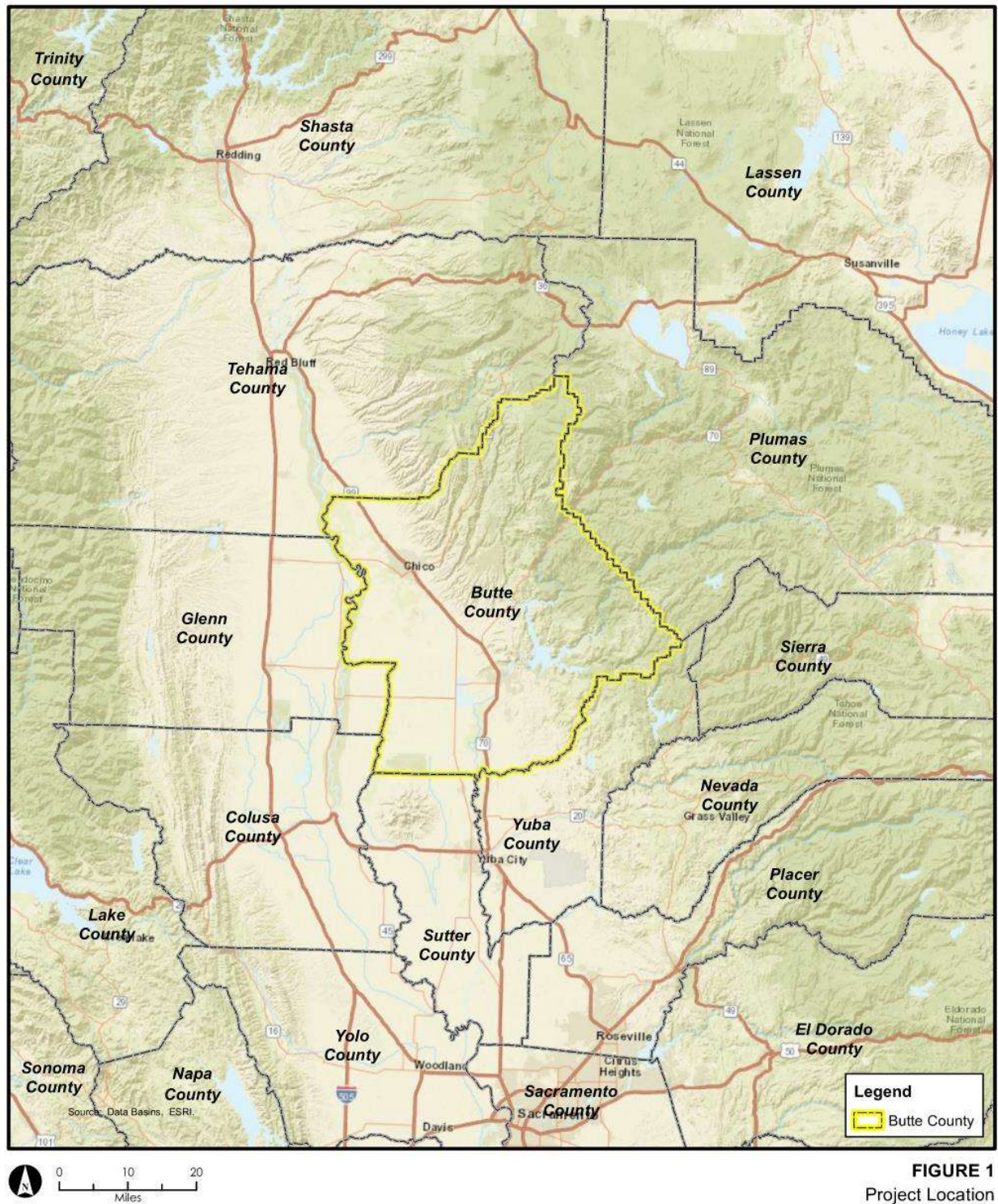
Attendee URL: <http://bit.ly/ScopingAttendee>

Event Password: Scoping

Meeting Number: 182 370 7641

Phone: 1-844-992-4726

Written comments on the NOP should be sent at the earliest possible date but received no later than **5:00 PM April 2, 2021**. Comments should be addressed to Louie B. Mendoza, Agricultural Commissioner, Butte County Agricultural Commissioner's Office, 316 Nelson Avenue, Oroville, CA 95965. Comments may also be submitted by email to ButteAg@ButteCounty.net. For questions or additional information, please contact Mr. Mendoza at (530) 552-4100.





NATIVE AMERICAN HERITAGE COMMISSION

March 10, 2021

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Butte County, Agricultural Commissioner's Office
316 Nelson Avenue
Oroville, CA 95965

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Butte County Agriculture
MAR 16 2021

Re: 2021030129, Butte County - USDA Animal and Plant Health Inspection Service - Wildlife Services Integrated Wildlife Damage Management Program Cooperative Service Agreement Project, Butte County

Dear Mr. Mendoza:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines § 15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides 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. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- b. 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:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
- c. 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.
- d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
- e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
- f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalePAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

- b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
3. Contact the NAHC for:
- a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
- a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Nancy.Gonzalez-Lopez@nahc.ca.gov.

Sincerely,



Nancy Gonzalez-Lopez
Cultural Resources Analyst

cc: State Clearinghouse